

IS VIOLENT SPEECH A RIGHT? CASS SUNSTEIN

THE AMERICAN PROSPECT

SUMMER 1995
\$7.95 USA
\$8.95 CAN

HARVEST OF INFLUENCE

Glenn R. Simpson

Who's Getting Rich
in America
Edward Wolff

So You Want to Be
Color-Blind
Peter Schrag

Backfire on Campus
Jonathan Chait



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Causes

THE MOVEMENT AND THE SIXTIES

Protest in America from Greensboro to Wounded Knee

TERRY ANDERSON

"What a trip through the Sixties Terry Anderson conducts. The highs, the lows, the triumphs, the failures are all revealed as we speed along through the decade. If you lived through it you will find yourself here. If you weren't there, this is as close as you can get.... Anderson is terrific on the counter-culture, especially evocative in writing about his fellow soldiers in Vietnam"—Stephen E. Ambrose. "An exciting and important book, notable for its broad scope, massive research, and bold interpretation, all presented in a lively style"—Richard S. Kirkendall.

\$30.00, 504 pp.

SEEKING FAIR TREATMENT

From the AIDS Epidemic to National Health Care Reform

NORMAN DANIELS

"Very deftly, clearly, and persuasively shows how the way we think about AIDS should be related directly to the way we think about the allocation of health care resources in this country. He has made a splendid, important, and moving contribution"—Daniel Callahan, The Hastings Center. "Norman Daniels, perhaps the leading theorist on justice and health care, turns his sharp intellect to the HIV epidemic.... Makes a singularly important contribution to unraveling the perplexing ethical dilemmas presented by AIDS. More important, he explores with rigor the defining issues of social justice and health in contemporary American society. With penetrating logic and human compassion, Daniels probes the deep inequities and inefficiencies in the health care system"—Lawrence O. Gostin, Georgetown University.

\$25.00, 216 pp.

STARTING RIGHT

How America Neglects Its Youngest Children and What We Can Do About It

SHEILA B. KAMERMAN and ALFRED J. KAHN

"Kammerman and Kahn break new ground in their admirable most recent effort on behalf of young children. This well reasoned and inspiring volume documents precisely where the inadequacies of U.S. policy lie, and it points out practicable ways to achieve the kind of safety net our youngest citizens so desperately need"—Edward Zigler, Yale University. "This is a serious approach to a serious problem by experts who have witnessed the differences around the world in the commitment to their children. Unfortunately, America lags way behind the rest of the world and *Starting Right* points this out"—T. Berry Brazelton, Harvard University. \$25.00, 240 pp.

THE AMERICAN STREET GANG

Its Nature, Prevalence, and Control

MALCOLM KLEIN

"The dean of gang researchers has spoken, and he has a lot to say. No one who is concerned with gangs, with crime, with youth, or with urban life...can afford not to read this book. It is a masterpiece"—James F. Short, Jr. "An outstanding contribution to modern knowledge about American street gangs by the world's leading researcher on the topic"—David P. Farrington. "America's leading authority on delinquent gangs has given us his personal voice based on some thirty years in street gang research.... There is wholesome honesty and integrity in this remarkable, informative volume"—Marvin E. Wolfgang. \$27.50, 304 pp.

Then and Now



At better bookstores. To charge, 1-800-451-7556 (M-F, 9-5 EST) • OXFORD UNIVERSITY PRESS

Words & Deeds

FIGHTING WORDS

Individuals, Communities, and Liberties
of Speech

Kent Greenawalt

In a lucid and balanced analysis of contemporary court cases dealing with "hate speech," flag burning, speech codes, obscenity and workplace harassment, the acclaimed First Amendment scholar Kent Greenawalt addresses a broad general audience of readers interested in the most current free-speech issues.

"Kent Greenawalt's important, insightful book provides thoughtful, lucid, well-balanced analyses of the most challenging contemporary free speech controversies."—Nadine Strossen, President, American Civil Liberties Union

Cloth: \$24.95
ISBN 0-691-03638-1

IMPROVING POOR PEOPLE

The Welfare State, the
"Underclass," and
Urban Schools as
History

Michael B. Katz

"Michael Katz is not just the leading historian of urban poverty and social policy in the United States; he is of that rare breed of scholars who believes in changing the world he interprets. And as he demonstrates in these powerful, moving essays on welfare reform, the 'underclass' debate, and urban education, interpreting the past is not only essential for creating a different future but often just as difficult. . . . Anyone truly concerned about the plight of America's inner cities must read this book."—Robin D. G. Kelley, author of *Race Rebels: Culture, Politics and the Black Working Class*

Cloth: \$22.50 ISBN 0-691-02994-6

*New in paperback,
with a new preface by the author*

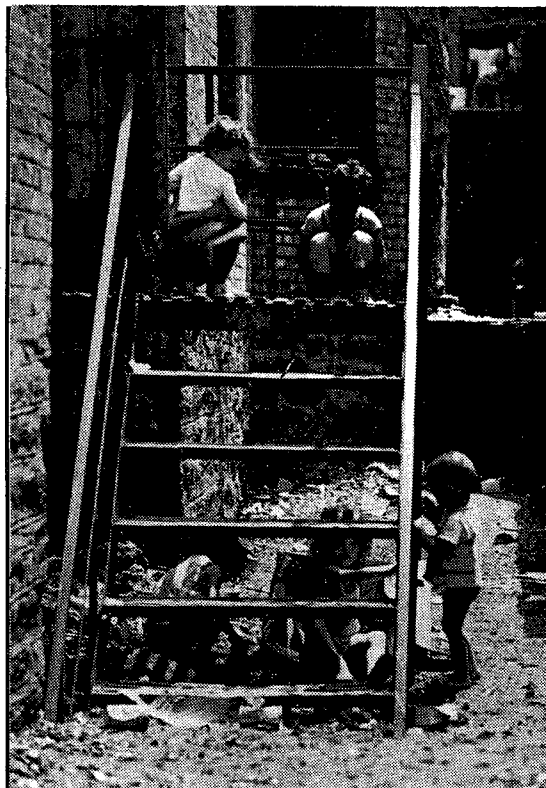
LIBERAL NATIONALISM

Yael Tamir

"As this century staggers to its balkanized end, it is harder than ever to believe . . . that liberal principle can be reconciled with nationalism, or that national liberation can ever have liberal results. It is against this brutal historical background that one begins to appreciate the daring of Yael Tamir's enterprise. . . . This is a book of philosophy that illuminates the real world. . . . [An] intelligent and humane work."—Michael Ignatieff,

The New Republic

Now in paper: \$12.95
ISBN 0-691-00174-X
Due July 1995



CONSTRUCTING COMMUNITY

Moral Pluralism and
Tragic Conflicts

J. Donald Moon

In developing a new theory
of political and moral commu-

nity, J. Donald Moon confronts the question of how community can be created among those who have very different views about the proper ends of human life. In recent years, traditional ways of looking at this question have come under attack by post-modernists, feminists, and thinkers concerned with pluralism. Here Moon proposes a reformulated liberalism that is intended to overcome the problems they have identified.

"There is much to admire in Moon's patient and wide-ranging analysis. . . . *Constructing Community* is a clear, and clearly important, contribution to liberal theory and practice."—*Journal of Politics*

Now in paper: \$16.95 ISBN 0-691-02550-9

PRINCETON UNIVERSITY PRESS

AVAILABLE AT FINE BOOKSTORES OR DIRECTLY FROM THE PUBLISHER: 800-777-4726

THE AMERICAN PROSPECT

A JOURNAL FOR THE LIBERAL IMAGINATION

DEPARTMENTS

OF OUR TIME: A PILE OF VETOES 6

Robert Kuttner

DEVIL IN THE DETAILS 12

Jonathan Chait

STORYLINES: SHOULD JOURNALISTS DO COMMUNITY SERVICE? 14

Jonathan Cohn

CONTROVERSY: NOT JUST THE ECONOMY, STUPID 18

John B. Judis

Response by Jeff Faux

HOW LOW CAN YOU GO? 96



FEATURES

SENATOR DOLE'S GREATEST HARVEST 25

How long-cultivated interests help advance the Majority Leader's political fortunes—and circumvent campaign finance limits.

Glenn R. Simpson

IS VIOLENT SPEECH A RIGHT? 34

Advocacy of illegal violence to kill people is not necessarily constitutionally protected speech.

Cass R. Sunstein

SO YOU WANT TO BE COLOR-BLIND 38

ALTERNATIVE PRINCIPLES FOR AFFIRMATIVE ACTION

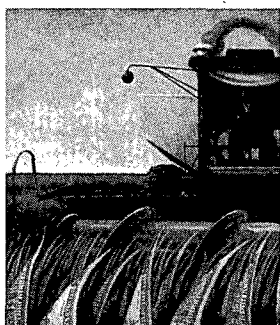
It is no longer plausible to maintain that affirmative action's flaws are ephemeral. The bad must be jettisoned in order to preserve the good—before conservatives destroy both. Here's how.

Peter Schrag

BACKFIRE ON CAMPUS 44

In their efforts to enforce multiculturalism, university administrators have unwittingly created a new breeding grounds for conservative rebellion.

Jonathan Chait



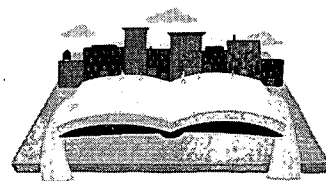
THE COMMUNITY IS THEIR TEXTBOOK

MARYLAND'S EXPERIMENT WITH MANDATORY SERVICE FOR STUDENTS

At its best, service learning enriches both students and their communities. But creating good programs isn't easy.

Suzanne Goldsmith

51



HOW THE PIE IS SLICED

AMERICA'S GROWING CONCENTRATION OF WEALTH

When a rising tide lifts only a few boats.

Edward N. Wolff

58

THE JOB GHETTO

Competition in the inner city even for fast-food jobs is so great that welfare recipients will have trouble getting them.

Katherine Newman and Chauncy Lennon

66

HOUSING POLICY'S MOMENT OF TRUTH

In Washington these days, HUD is about as popular as mosquitoes. But there's a way to make housing more affordable without the old bureaucracy.

Peter Dreier and John Atlas

68

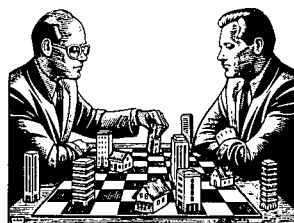
PARALYSIS BY ANALYSIS

HOW CONSERVATIVES PLAN TO KILL POPULAR REGULATION

Simply revoking laws that protect clean water, air, or food wouldn't be popular, so Congress is passing procedural changes that sound neutral but bias the outcome in favor of corporate interests.

David C. Vladeck and Thomas O. McGarity

78



FIGHT SMOKE WITH FIRE

Why taking on Big Tobacco in the name of children's health is a winning issue for Democrats.

Michael Pertschuk

84

CRITICISM

STATE OF THE DEBATE: YOU'RE BEING ROBBED

A few simple ideas on how to revive labor and liberalism.

Thomas Geoghegan

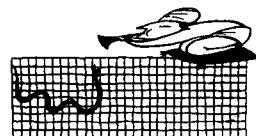
87

BEHIND THE NUMBERS: THE FLAT TAXERS' FLAT DISTORTIONS

Several leading Republicans now claim that a flat tax can lower most taxpayers' burden, close loopholes, and avoid revenue shortfalls. Wrong on all counts.

Robert S. McIntyre

93



EDITORS' NOTE & CONTRIBUTORS

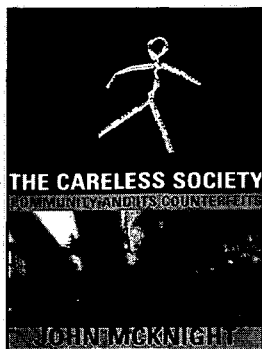
CORRESPONDENCE

5

22

BASIC ISSUES

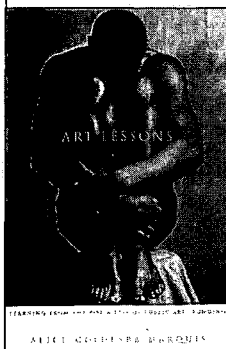
Do "social services" undermine neighborhoods?



"A watershed analysis ... [for] all future considerations of welfare reform and community revitalization."

—Robert Woodson, SR., National Center for Neighborhood Enterprise

Should government be in the arts business?



ART LESSONS

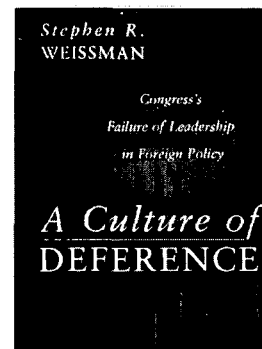
Learning from the Rise and Fall of Public Arts Funding

ALICE GOLDFARB MARQUIS

"A lively, slashing history of public arts funding in the U.S. from the end of World War II to the present."

—Publishers Weekly

Should Congress stay out of foreign policy?



How congressional deference to the presidency and State Department has led to foreign policy failures in Bosnia, Haiti, and elsewhere.

 **BasicBooks**

A Division of HarperCollinsPublishers

At bookstores or call toll-free 800-331-3761

Also available from HarperCollinsCanadaLtd

THE AMERICAN PROSPECT

Printed in the United States. *The American Prospect* (ISSN 1049-7285) is published four times a year by New Prospect, Inc., P.O. Box 383080, Cambridge, MA 02238. Our internet mail address is tap@epn.org. Subscription rates for individuals in the U.S.: \$25 a year; \$40 for two years; \$15 for students. University libraries: \$60 a year; \$100 for two years. Other institutions: \$40 a year. Foreign subscribers add \$9 a year. *The American Prospect* is distributed by Ingram Periodicals and Bernhard DeBoer, Inc. For information about reprints, distribution, or advertising call (617) 547-2950. To reprint for classroom use, contact CCC Academic Permissions Service, 222 Rosewood Drive, Danvers, MA 01923, (508) 750-8400. Issue copies are available on 16 mm microfilm, 35 mm microfilm, and 105 mm microfiche through University Microfilms, Inc., (313) 761-4700. Second-class postage paid at Cambridge, MA and an additional post office. All materials copyright by New Prospect, Inc.

new political science

#30-31 -- Bodies and Nations
Nicole Fermon, editor

Zillah Eisenstein, *Writing Hatred on the Body*; Sarah Kofman, *Interview*; Diana M. Hartel, *Gender Bias in AIDS Research*; Valerie Lehr, *Queer Politics in the 1990s*; Louis E. Howe, *Political Immunology: Political Subjectivity (Subjection) in the Information Age*; Babette E. Babich, *Philosophy of Science and the Politics of Style: Beyond Making Sense*; Koula Mellos, *The Beauty and the Beast: Foucault's Aesthetic of Existence*; Bill Sweeny, *Views from the Front* (photos).

Special offer—4 issues for \$25 (\$5 off)

Yes! I want 4 issues of NPS for only \$25.

☐ Check enclosed. ☐ Please bill me.

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Clip and mail to: NPS, c/o Govt. Dept., Suffolk University, Boston, Massachusetts 02108-2770.

This issue carries articles written in two different moods. One group exposes facts about the familiar. Familiarity breeds indifference—which in the case of the subject of our cover story, Bob Dole, seems to be his good fortune. Whenever he does anything for transparently cynical motives, many people say that he is, after all, only being Bob Dole. And so the press has ignored his circumvention of the campaign finance laws. In this issue, we make up for that oversight by publishing Glenn Simpson's investigation of Dole's fundraising network as part of our continuing series on campaign finance.

Familiarity also breeds indifference to the larger inequalities described by Edward Wolff in this issue. Still, the magnitude of the trend toward the concentration of wealth that Wolff delineates is astonishing, all the more so since the U.S. is now considering tax changes that would intensify the shift—as Robert McIntyre spells out in his devastating analysis of the flat tax.

If we were to advertise these articles the way they sell breakfast cereals, our slogan might be, "Taste indignation again for the first time." Or if we followed Tom Geoghegan's advice (see page 87), we'd just say, "You're Being Robbed." But then there is another side to this issue: Peter Schrag's "So You Want to Be Color-Blind"; Jon Chait's "Backfire on Campus"; Cass Sunstein's "Is Violence Speech a Right?"; Suzanne Goldsmith's "The Community is Their Textbook"—each a nuanced essay on the contemporary dilemmas of rights, civic culture, and reform. In this difficult political season, the trick is to be reflective, indeed self-critical, without losing the capacity for outrage and resistance.

PAUL STARR

CONTRIBUTORS

John B. Judis is a senior editor at the *New Republic* and author of *Grand Illusions: Critics and Champions of the American Century*. **Jeff Faux** is president of the Economic Policy Institute and coauthor of *Rebuilding America*.

Glenn R. Simpson, the senior staff writer for *Roll Call* newspaper, is writing a book on the 1994 elections with Larry J. Sabato for Times Books/Random House, to be published in December.

Cass R. Sunstein teaches law at the University of Chicago. He is author of *Democracy and the Problem of Free Speech*.

Peter Schrag is editorial page editor of the *Sacramento Bee*.

Suzanne Goldsmith, author of *A City Year*, is director of the community service project at the American Alliance for Rights and Responsibilities.

Edward N. Wolff is professor of economics at New York University and managing editor of the *Review of Income and Wealth*. He is the author of *Top Heavy: A Study of Increasing Inequality of Wealth in America*. His article is the second in a series on inequality, poverty, and the changing economy, supported by a grant from the John D. and Catherine T. MacArthur Foundation.

Katherine Newman is professor of anthropology and **Chauncy Lennon** is a doctoral candidate, both at Columbia University. This research was supported by

the Russell Sage, Rockefeller, Ford, Spencer, and W.T. Grant Foundations as part of a comparative study of Harlem and Oakland, co-directed by Carol Stack at the University of California, Berkeley.

Peter Dreier is the E.P. Clapp Distinguished Professor of Politics and director of the Public Policy Program at Occidental College. **John Atlas**, an attorney, is director of a legal aid agency and president of the National Housing Institute, a think tank in Orange, New Jersey.

David C. Vladeck is the director of Public Citizen Litigation Group. He is also an adjunct professor of law at Georgetown University. **Thomas O. McGarity** holds the W. James Kronzer Chair in Law at the University of Texas and is the author of *Reinventing Rationality*.

Michael Pertschuk is co-director of the Advocacy Institute and the former chairman of the Federal Trade Commission.

Thomas Geoghegan, a Chicago lawyer, is author of *Which Side Are You On?: Trying to be for Labor When It's Flat on its Back*.

Robert S. McIntyre is director of Citizens for Tax Justice.

Illustrators: William Bramhall (35, 46, 47), Dan Krovatin (38, 69), Dan Yaccarino (52)

Cover: Bob Dahm

ROBERT KUTTNER

A Pile of Vetoes

Midway through this first year of Republican legislative hegemony, President Clinton has seemingly risen, once again, from the political dead. One cannot yet say the same for the Democratic Party or the cause of liberalism. The Republicans are still very much in charge, with an agenda more stridently radical and more dominant than anything justified by their slender win last November. One prospect is that the Clinton presidency will survive, but in an alliance with a conservative Congress and at the expense of liberalism. Another is that Clinton's attempt at accommodation will fail, and the right will make a clean sweep in 1996.

To date, Clinton's posture has been that of Great Conciliator. During Gingrich's giddy Hundred Days, the president kept his head down. He was polite, even deferential to the Republicans, insisting that he wanted to work constructively with the new congressional majority. He was not elected "to produce a pile of vetoes," Clinton declared on several occasions. (FDR, a pretty effective chief executive, used the veto 635 times and on a Democratic Congress.) For a time, Clinton appeared almost as a ceremonial, European-style president with Gingrich as prime minister. In April, a reporter could seriously inquire whether the president was "relevant" at all. In June, Clinton engaged in a very gentle New Hampshire encounter with the Speaker, and then capped the conciliatory posture by embracing budget balance.

One wondered: What was the White House strategy? Was there a strategy? Was President Clinton shrewdly waiting for the Gingrich wave to crest, confident that Gingrich would overreach? Or had he cravenly concluded that much of the Contract was actually popular and that his re-election depended on collaborating with the right? Did he hope that if he resisted attacking the Republicans, they might

reciprocate and treat him gently? Was his more conservative side genuinely attracted to some of Gingrich's ideas? Or was the game plan to bide his time, appear presidential, and wait to see what happened next?

In January and February, Clinton's speeches and radio addresses had an almost surreal quality, as if he were president-in-exile. He trooped around the country, relentlessly cheerful, giving speeches at community colleges, high schools, small businesses, talking about his New Covenant, a document plainly irrelevant to the steamroller on Capitol Hill. His speeches emphasized education, job training, tax cuts for working people, national service, all unimpeachable, even liberal, goals. But nowhere was there a frontal attack against Republican plans to remove over a trillion dollars from the federal budget—a goal that would plainly moot all of the president's initiatives, and more. In fact, one looked in vain for a serious challenge to the public philosophy behind the Contract.

One wondered: What was the White House strategy? Was there a strategy?

In one of his most important speeches, on April 7 to the American Society of Newspaper Editors, Clinton went out of his way to emphasize commonalities between his program and the Republican one. He had been elected in 1992, he noted, because the voters wanted change. The Republicans won in 1994 because the voters still wanted change, Clinton continued, ticking off area after area where his goals were the same as theirs—deficit reduction, welfare reform, smaller government. "We both want tax cuts, less intrusive government regulation, the line-item veto, the toughest possible fight against crime," Clinton declared, almost as if he could somehow wrap himself in their victory by embracing their ideas. Later in the speech, he drew some lines—against tax cuts for the rich, punitive welfare reform, and excessive cuts in social outlay. But the strategy plainly seemed an effort to preempt the center by offering a kinder, gentler, moderately conservative program.

In Congress, not only were many Democrats reluctant to take the Republicans on, but their own initiatives often had the same me-too quality. Democrats criticized the Republican welfare reform proposal, which omitted funds for jobs, but much of the Democratic rhetoric implied the Republicans

were not being tough enough. In the absence of a clear White House strategy, the House and Senate Democratic leadership concentrated on maintaining a semblance of party unity, which gave the most conservative Democrats in both chambers all the bargaining power.

The official House Democratic alternative budget resolution, drafted by Representative Charles Stenholm, leader of the Democrats' conservative "Blue Dog" bloc, was a near copy of the Senate Republican budget. Speaking at a Republican campaign dinner in the midst of the budget debate, Gingrich crowed that the best the House Democrats could do was to oppose the Kasich budget with the Domenici budget. He demanded, tongue in cheek, that Senator Dole "keep better control of your documents."

In the Democratic cloakrooms, the all too revealing word of the moment was "cover." The Democratic response to much of the Republican agenda boiled down to, "Yes, but ..." Many Democrats responded to Republican proposals with their own, slightly less awful, versions. This was necessary, strategists explained, to provide political "cover." Consider what the need for cover implies. It presumes that the Republican assault on government is basically popular and that the Democratic position, should it become known, is not. It suggests that Democrats lack either convictions or courage, and that they can survive only by stealth.

Seeking cover on the issue of welfare reform, House Democrats allowed Georgia Democratic Congressman Nathan Deal, whose district adjoins Newt Gingrich's, to craft a substitute welfare bill only a shade less harsh than the Republican one. Majority Leader Dick Gephardt gamely delivered a nearly unanimous Democratic caucus for the Deal substitute bill. The measure, as expected, failed on a straight party-line vote but allowed Democrats to be recorded in favor of a stern welfare bill. Not long afterward, Deal reciprocated by switching parties.

The emblematic case in point, of course, is the balanced budget. In the current climate of antipathy to tax increases and a refusal to tamper with Social Security or cut defense spending, a balanced budget would crowd out not just new initiatives but wreck what is left of affirmative government. It would also be fiscally contractionary. Its first incarnation this

THE AMERICAN PROSPECT

EDITORS

Paul Starr
Robert Kuttner

FOUNDING EDITORIAL BOARD CHAIRMAN, 1989-1993
Robert B. Reich

MANAGING EDITOR

Jonathan Cohn

ASSISTANT EDITOR

Jonathan Chait

SENIOR EDITOR

Deborah A. Stone

CONTRIBUTING EDITORS

Alan Brinkley, Jeff Faux, Arlie Hochschild,
Stephen Holmes, Christopher Jencks,
Sheila Kamerman, Randall Kennedy,
J. Anthony Lukas, Robert S. McIntyre,
Theodore R. Marmor, Karen M. Paget,
Richard Rothstein, Cass R. Sunstein,
Lester C. Thurow, William Julius Wilson,
Shoshana Zuboff

CHAIRMAN

Hugh A. Westbrook

FOUNDING SPONSORS

Kenneth J. Arrow, Daniel Bell, Kenneth B. Clark,
Marian Wright Edelman, John Kenneth Galbraith,
Danny Goldberg, Sidney Harman, Irving Harris,
Albert O. Hirschman, Harry Kahn, Charles Lindblom,
Arthur M. Schlesinger Jr., Fritz Stern, James Tobin,
Frank Weil, Lynn Williams, Shirley Williams

CIRCULATION MANAGER

Gina Costello

OFFICE MANAGER

Kimberly Mullin

MANAGER, ELECTRONIC POLICY NETWORK
Richard Rath

MARKETING MANAGER

Amy Stackhouse

CIRCULATION ASSISTANT

David Soble

PRODUCTION ASSISTANT

Jeff Quiggle

year was the constitutional amendment to require budget balance by the year 2002. At press conferences, Clinton repeatedly passed up the chance to say that the amendment was simply a bad idea. White House staffers gave the impression that they opposed the amendment; during much of January, they distributed materials projecting its devastating effects on popular outlays, state by state, program by program. But nobody would quite say that the White House wanted the amendment to fail, because that went beyond the president's own position.

On January 26, the amendment easily passed the House. Key Democratic senators, including liberals like Joe Biden of Delaware, began defecting, while the White House dithered. Only in the final week did the president, prodded by staff, begin discreetly working the phones. With just days to go, one small group of wavering Democrats led by California's Dianne Feinstein resolved to vote nay, on the grounds that the amendment failed to protect Social Security. Cover! In a cliff-hanger finale, three brave Dakotans kept the amendment from passing, by a single vote. But the political price was steep. In rejecting the amendment ("Yes, but ...") scores of Democrats felt constrained to insist that they supported balanced budgets, too.

Instead of opposing the whole idea, the president limited himself to challenging the Republicans to specify what they would cut. In due course, they called his bluff. Budget balance by the year 2002, the target of the blocked constitutional amendment, became the sacrosanct legislative goal of Republican budget resolutions in both houses.

The Democrats' time bomb exploded on June 13, when their president officially embraced budget balance. By doing so, he de-linked his own fate from that of his party. White House aides spoke openly of a "triangle" tactic, differentiating the president from Democrats as well as Republicans. Congressional Democrats were told that the White House wouldn't mind if their comments were critical. A key architect of the June budget strategy was Dick Morris, a pollster with mostly Republican clients, who has emerged as one of Clinton's closest political advisers.

Clinton's support for budget balance had several consequences. It reinforced his image as a me-too politician. It intensified the impression that the Republicans were setting the agenda and that

Democrats were responding with a watered down version of the Republican program. Instead of engaging the Republicans, offering a clear alternative, and debating first principles, the president seemed to be quibbling about details.

Ironically, until the president pulled the rug out, Democratic leaders in Congress had been making some headway, smoking out the implications of budget-balance. Reducing spending by some \$200 billion a year over seven years entails cutting much more than fat. Democrats pounced on massive Republican-proposed cuts in Medicare, Medicaid, funding for basic science, school aid, and so on. Instructive cracks appeared in the Republican steamroller. Dole and Gramm plainly detested each other. Gingrich wanted even steeper cuts in order to deliver tax relief. Pete Domenici, the Senate Budget Committee chairman, did not.

On other fronts, Dole had to backtrack on his threat to deny Henry Foster, the nominee for surgeon general, a floor vote. Nor could Dole get his tort reform bill through the Senate as drafted, and had to make major concessions. But the core of the Democrats' brief resurgence was their defense of popular public services. By offering a balanced budget with nearly as much pain as the Republican version, the president blurred the question of which party could be counted on to defend Medicare, education aid, and the rest. On the very day that President Clinton offered his own balanced budget, mooting the Democrats' strategy in Congress, a *Los Angeles Times* poll revealed that the strategy was beginning to pay off. Republican popular support was at its lowest level since the November 1994 election.

Budget balance has become a test of virtue in the elite press. The *New York Times*, *Washington Post*, and *Boston Globe* all editorially supported Clinton's embrace of a balanced budget. The *Wall Street Journal* smirked that the president was at last getting the message. But polls suggest that when faced with a choice between budget balance and the scrapping of popular programs, voters really don't want budget balance. There was a road not taken, one which would have been better policy and better politics. The president might have explained that absolute budget balance is the reason for these draconian, unpopular, and entirely unnecessary cuts. If we want to spare Medicare, job training, education aid, and the rest, and do so without raising middle-class

taxes, we should reject absolute budget balance as a goal.

Some basic arithmetic: The ratio of publicly held debt to gross domestic product is now about 51 percent. The postwar low was about 25 percent. If we want to bring down the current ratio of debt-to-GDP, we need only to keep the deficit below the rate of economic growth. It would be much more sensible to reduce the ratio of debt-to-GDP gradually than to pursue absolute balance by a date certain.

By proposing a gentler form of budget balance, White House strategists think they can capture a new political center. But a more distressing scenario is taking form. The Gingrich-Kasich brand of budget balance, approved by the House, would balance the budget by the year 2002 and raise the ante by throwing in \$353 billion in tax cuts. The more moderate Senate version, courtesy of Domenici, would also achieve balance, but award modest tax cuts only if a predicted fiscal "bonus" emerges in the form of lower interest costs to the Treasury. Even the Domenici approach would require cuts in discretionary programs averaging 30 percent. An all-

Republican conference will split the difference.

The present trajectory of debate could well lead to a September budget summit in which the Domenici budget is the left alternative. Clinton could define tax cuts for millionaires as the key unacceptable feature of the Gingrich approach, restore a few crumbs of budget cuts, and end up embracing a budget perilously close to the Domenici plan and declaring victory. This would leave a Democratic president sharing credit for a budget that achieved balance by eviscerating public spending and leave the Democrats as an opposition without an alternative.

Not only is budget balance seemingly sacrosanct—routes to fiscal discipline that would spare popular and legitimate social spending are evidently off the table, too. You would think that Democrats, faced with the need for deficit reduction, might propose to close tax loopholes and pare defense spending, the better to fight for traditional social outlays. But the only proposal to pursue that route, an alternative sponsored by the Black Caucus and the Progressive Caucus that actually increased funds for

The Right Guide 1995

CAN YOU MATCH CEO & SALARY?

1. Edward Crane, III (Cato Institute)
2. Christopher DeMuth (American Enterprise Institute)
3. Edwin Feulner, Jr. (Heritage Foundation)
4. John Goodman (National Center for Policy Analysis)
5. Wayne LaPierre, Jr. (National Rifle Association)
6. Ralph Reed, Jr. (Christian Coalition)

(not in correct order)

a) \$122,556 b) \$111,507 c) \$161,593
d) \$430,158 e) \$329,560 f) \$173,881

The answers are all in **THE RIGHT GUIDE**, the most complete source of information about the groups of the conservative and free-market movement worldwide. For the first time in one source, expenditures, revenues, net assets, top salaries and sources of funding are revealed. Lists over 3,400 organizations. 831 groups are profiled in-depth. Includes: mission, accomplishments, key personnel, publications, newspaper citations, contact information, tax status and more.

"Admirably achieves its purpose of providing information about the organizations and people producing the ideas and advancing right-oriented public policy and scholarship today."

BOOKLIST, AMERICAN LIBRARIES ASSOC.

484 pages, clothbound.
\$49.95 (includes UPS delivery)

Economics America, Inc.
612 Church St., Ann Arbor, MI 48104
Visa or MasterCard call (800) 878-6141

EDITORIAL POSITION OPEN

The American Prospect offers a one-year, entry-level editorial position each September.

We are looking for a recent college graduate with an analytical mind, an interest in journalism, a preoccupation with current affairs, and an eagerness to learn all facets of magazine work. Experience on a publication, either collegiate or professional, is desirable, as is familiarity with desktop publishing.

The job includes a wide variety of editorial tasks: reading incoming manuscripts, editing, proofreading, production work, and so on. There is a fair amount of clerical work, but the job also includes writing for the magazine on a regular basis. In exchange, we offer low wages and long hours.

If you are interested, please send a resume and some writing samples that demonstrate fact-gathering and analytical abilities to *TAP*, P.O. Box 383080, Cambridge MA 02238. You can also reach us by telephone (617-547-2950) or via email (tap@epn.org).

Republican strength today reflects not a popular revolt, only an asymmetry of conviction and political will among party elites.

seeking legitimacy as Democrats by embracing an essentially Republican program.

The president has already decided not to make budget balance a defining issue that differentiates the two parties. He has, however, vowed not to give the Republicans all the tax and budget cuts that they seek. Unfortunately, Clinton has virtually stipulated that he will compromise in order to avoid a showdown that would shut down the government and this stance gives the Republicans every reason to hang tough.

In order to have an endgame, the Democrats need a middle game. It is improbable that Clinton would preach cooperation and conciliation all spring and then suddenly veto everything in the fall. Elements of the Gingrich Contract will soon reach the president's desk, and his response should be to veto, not split the difference. Now is the time for drawing lines in the sand and educating public opinion. Much of the Gingrich Contract is an insider document, written to satisfy partisan ideologues and interest groups, not popular demands. "Regulatory reform," Republican-style, would paralyze regulation of health, safety, and environmental hazards—regulation that is necessary and popular. "Tort reform" would serve mainly business interests and deny ordinary citizens redress for injury. The Gingrich brand of block grants would give Congress the credit for balancing the budget and leave states and cities holding the bag. This is not a program that reflects popular demands. If Clinton vows to veto it, he will win credit both on the merits and for his toughness. The process of mustering the votes to sustain his vetoes would be good for

jobs, education, and public investment, got just 56 votes in the House (and no notice in the press). The Stenholm budget, plagiarized from Senator Domenici, got 100 Democratic House votes, from Democrats seeking "cover." Thus the president and much of his party in Congress have outdone each other in

Democratic unity. Newt Gingrich, as Barney Frank likes to say, is a "bleeder." Punch him in the nose, he whines and backs down.

If, on the other hand, Clinton goes along with most of the Republican program, he will win little applause for conciliation and he will squander the "product differentiation" that allowed Democrats to score those tactical budgetary points in late spring. The sense of conservatism on the march will continue, ratified by the fact that even a Democratic president has gotten with the program. Clinton may take credit for sanding down the rough edges, but the conservative triumphalism at having transformed the national agenda will only deepen.

Of course, it is possible that by conciliating the right, Clinton might save his presidency. Too many of the President's advisers have little difficulty with a strategy that has him tack to starboard, proclaiming that he "got the message" of 1994, and offering a center-right program more high-minded and less mean-spirited than that of Gingrich, Gramm, and Dolé. A Clinton-Domenici entente is one strategy for winning re-election. But a second Clinton term, won on that basis, would be without resources or principle, and more dependent than ever on Republican votes. It would be a true disaster for Democrats even modestly to Clinton's left, who would be painted as out of touch, statist, and even less able to deliver for their core constituencies.

There are two contending interpretations of the 1994 election. One holds that the voters bought the philosophy behind the Gingrich contract. The other suggests that having voted for change in 1992, people were weary of continuing stalemate in Washington and multiple insecurities in their lives—and voted for the out party. There is no evidence of mass support for the radicalism of Gingrich's program. But through his deference Clinton undermines his own party's resolve to fight, and validates Gingrich's claim to speak for a mass majority.

If the current conservative dominance were the result of a popular upsurge, liberals should simply let the right reign and try to rebuild a popular and intellectual base. However, Republican strength today reflects not a popular revolt, only an asymmetry of conviction and political will among party elites. In this climate there is no "cover." There is only leadership—and barely time to reclaim it. □

Raise Your Brow

NEW HARVARD PAPERBACKS



Forbidden Grounds

The Case against Employment Discrimination Laws

RICHARD A. EPSTEIN

"[C]overs not only laws on racial discrimination but also sex discrimination, age discrimination and disability discrimination...No one who writes on this subject again can be taken seriously if he or she does not confront the analysis presented here."

—Thomas Sowell, *Forbes*

\$18.95

Public Education

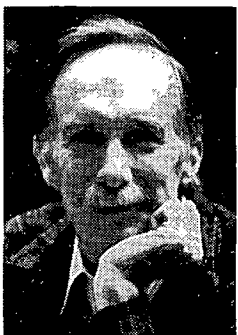
An Autopsy

MYRON LIEBERMAN

"The most comprehensive account yet of how the public schools are failing us and why. It is exhaustive in its detail, brutally honest—and politically incorrect. Everyone who cares about American education should read it."

—Terry M. Moe, *Washington Post Education Review*

\$14.95



The Homeless

CHRISTOPHER JENCKS

"A major achievement... [Jencks's] findings defy not only the wisdom of the average sidewalk sociologist, but also the arguments of many established researchers."

—Brigitte Berger,
New York Times Book Review

\$10.00

Crime in the Making

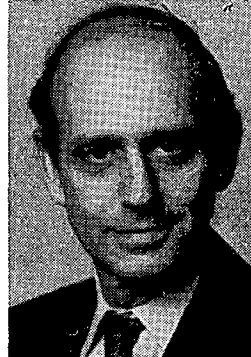
Pathways and Turning Points through Life

ROBERT J. SAMPSON AND JOHN H. LAUB

"Imaginative and forthright, a well-argued book with broad theoretical and methodological implications."

—John Modell, *American Journal of Sociology*

\$17.95



Breaking the Vicious Circle

Toward Effective Risk Regulation

STEPHEN BREYER

"An eloquent meditation on how to regulate perilous activities in a world that cannot afford to reduce risk to zero."

—Peter Passell, *New York Times*

\$14.95

The Scar of Race

PAUL M. SNIDERMAN AND THOMAS PIAZZA

"Lots of ordinary folks know it, but it's not the sort of thing social scientists tend to say: When it comes to questions of public policy, few whites are racists. Whites may oppose particular items on the standard civil rights agenda, but they're not bigots...It's a heartening message in a beautifully crafted book."

—Abigail Thernstrom, *Wall Street Journal*

The Belknap Press \$12.00



Inequality Reexamined

AMARTYA SEN

"Amartya Sen has distilled a decade's reflection on questions of equality, poverty, and welfare into [this] book...Economic philosophers will be glad to see Sen's ideas summarized and interwoven...He is certainly a master of his craft."

—David Miller,

Times Literary Supplement

A Russell Sage Foundation Book

\$15.95

At bookstores or from
Harvard University Press
800-448-2242

SELECTIVE INFLATION, I

After a party gathering in May, the Republicans formulated their defense against the charge of cutting such government programs as school lunches and Medicare:

They're not cutting spending, they're increasing it. "A cut is only a cut," argued Budget Committee Chairman John Kasich, invoking the party line, "when spending is less this year than it was last year."

Of course, when a program faces inflation as well as population increases, its funding must rise to maintain equivalent services. Do the Republicans really deny this? Let's go to the tape. In 1994 congressional Republicans attacked President Clinton's proposed defense outlays for ravaging the military. "By 1999 we have a radical cut in our defense capabilities," argued Newt Gingrich in a floor speech. During that period, defense spending was to rise from \$263 billion to \$266 billion. Inflation, it seems, affects only certain government programs.

WELCOME TO THE THIRD WAVE

In January, Newt Gingrich delivered a speech to the Progress and Freedom

Foundation extolling the potential of new information services:

"My wife had a thyroid problem a couple of years ago, she called three different specialists and said, 'What do you charge?'

None of them would tell her. That's nuts.

And you should be able to access easily the database that says, 'Here are the doctors in the area; here's what they charge; here's

what their outcomes are like' before you walk in."

In fact, a federal agency exists to support research on the outcomes of medical treatment: the Agency for Health Care Policy and Research (AHCPR). House Republicans want to zero-out its funding. With a budget of \$162 million this year, the agency is hardly a cash cow for deficit reduction. And private sources are unlikely to make up for the withdrawal of federal funds for medical outcomes research, much less distribute impartial data to consumers in the form Gingrich says he wants. But congressional Republicans aren't suggesting the private sector will take over the research and data dissemination, anyway. The sole reason the House Budget Committee puts forth for defunding the agency is that it "performed an advocacy-type role on behalf of the Clinton health care plan"—a charge that the agency denies and that does not describe its research program.

The plan to eliminate AHCPR

fits in with a curious pattern of Republican cuts in programs that embody the "third wave" celebrated by Gingrich. If Gingrich took his own technobabble seriously, you'd think he would stop plans to slash basic science research, not to mention college loans. Over the Republicans' seven-year budget plan announced this spring, support for civilian science would drop by about one-third in real terms. The Commerce Department's information infrastructure projects would be eliminated entirely. For all his unworkable information-age rhetoric—giving laptops to all Americans, building space stations for the handicapped—Gingrich's support for information-age policies seems limited to scatter-brained ideas that have no chance of being carried out, while the real basis for turning the new technology to public advantage is being scuttled.

SELECTIVE INFLATION, II

The flat tax would render the tax system dramatically more regressive (see Robert McIntyre, "The Flat Taxers' Flat Deceptions," page 93), but its proponents insist that the real point is to make income taxes easier to understand and less vulnerable to loopholes. While introducing his flat tax plan, Majority Leader Dick Armey complained that "the complexity and unfairness of the [tax] code lead people to take an excessively jaded and cynical view of their government." (What? A cynical view of government? Where could this come from?)



So it's curious that House Republicans—supposedly ardent advocates of tax simplification—have passed a plan this year to index the capital gains tax for inflation. It sounds simple enough: Taxpayers would subtract any increase in price due to inflation before calculating their gain from sale of an asset. For example, suppose that someone bought stock for \$100 and sold it three years later for \$120 and that over those three years inflation totaled 10 percent. Instead of \$20, the taxable gain would only be \$10.

That's good news for people with assets to sell—except it would aggravate the very problems of complexity that Republicans say they want to solve. The nonpartisan Congressional Research Service (CRS) concludes that indexing capital gains would slightly improve the fairness of the capital gains tax, but “at the price of substantially increasing the complexity of the tax law and expanding opportunities for tax shelters.” The benefits of reduced capital gains taxes would flow overwhelmingly to the better-off (see Edward Wolff, “How the Pie Is Sliced,” page 58). However, small-time stockholders and homeowners, according to the CRS study, “would have to cope with extensive recordkeeping and computational complexities.” So maybe Republicans think more complexity isn't so bad if it means protecting capital gains holders from inflation.

Republicans' sensitivity to the victims of inflation doesn't, unfortunately, extend across the income spectrum. For years the earned income tax credit—a sub-

sidy to the working poor initiated during the Nixon administration—has been indexed to inflation to keep it from dwindling as the cost of living rises. One Republican proposal kicking around Congress would eliminate that form of indexing, freezing the cutoff point no matter how much inflation erodes its real value. Just as congressional Republicans seem to believe that only their favorite government programs are affected by inflation (see above), they also seem to believe that only their favorite economic classes need protection against it.

THE RESTAURANT INDUSTRY'S NUMBER COOKERS

A 1994 study by Princeton economists David Card and Alan Krueger showed that when New Jersey increased its minimum wage, it did not reduce low-wage jobs. This was perhaps the most influential, but not the only, recent study disproving the key argument in the conservative case against raising the minimum wage. Not long after, the American Economic Association gave Card its coveted John Bates Clark Award for overall achievement.

The Card-Krueger study was quickly attacked in a vituperative *Wall Street Journal* op-ed by Richard Berman, executive director of the Employment Policies Institute. Berman claimed that his organization had gathered its own data and found the study to be “worse than flawed.” This conclusion was based on analysis of a quarter of Card and Krueger's data, and its statistical conclusion wasn't much different. Unlike Card and

Krueger, however, the Employment Policies Institute kept its work confidential and did not submit its study to a peer review. Nevertheless, Berman succeeded in at least muddying the debate.

The Employment Policies Institute has weighed in on other issues as well. For example, it published an influential attack on the Clinton health plan by June O'Neill, whom Republicans have now appointed to take over the Congressional Budget Office.

What is the Employment Policies Institute? It's a research organization financed by the fast-food industry and like-minded businesses. Of course, it's not unusual for think tanks to accept money from labor or business or to research issues of interest to their patrons. EPI, however, is *completely* funded by business; it *only* researches issues in which its sponsors have a stake. And its political bias is none too subtle. Two years ago, on behalf of the organization, Berman gave Newt Gingrich a \$25,000 check to underwrite his televised college course.

CLASS IS IN

“I think Bill Clinton is going to run a class warfare campaign. I think he's going to try to pit people against each other based on income.” — Senator Phil Gramm, March 21.

“Let's reform welfare and demand that able-bodied men and women riding in the wagon on welfare get out and help the rest of us pull.” — Senator Phil Gramm, May 6 (and in several public addresses).

—Jonathan Chait

JONATHAN COHN

Should Journalists Do Community Service?

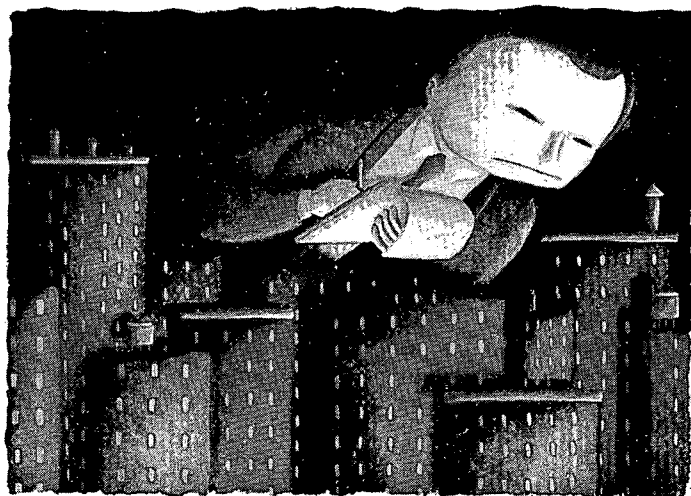
The *Philadelphia Inquirer* should not have been embarrassed last May when the *Wall Street Journal* uncovered a scandal in a Philadelphia charity. Even Pulitzer magnets like the *Inky* sometimes miss big stories right under their noses. But this was no ordinary case of being scooped by out-of-town competition. The foundation that the *Journal* exposed as a scam had been the subject of a favorable profile in the *Inquirer* only two weeks earlier, and it turns out the same foundation had indirectly helped finance an *Inquirer* project. Worse still, the project was an experiment in public journalism, a controversial approach to newspapering criticized pre-

journalism represents one way to help mend the nation's frayed social fabric; its critics say it compromises the media's objectivity, turns reporters into actors rather than observers, and thus jeopardizes their ability to provide a balanced chronicle of the news—which, at first blush, seems to be just what happened in Philadelphia.

In fact, the *Inquirer* may have been guilty of nothing so much as sloppiness. According to *Inquirer* editor Maxwell King, the reporter who covered the story simply didn't have the time to pursue all the leads. The initial article dutifully mentioned the foundation's connection to the newspaper: \$35,000 from the foundation had indirectly financed the expenses of a consultant the *Inquirer* hired to help produce a special section on reviving Philadelphia's inner city. Since the editorial page ran the project, with no newsroom involvement whatsoever, King says it was not exactly public journalism, which is generally known as a program carried out on the news pages.

But the mere appearance that the *Inquirer* might have gone soft on an organization that had channeled it money was enough to rattle staff and management, and even validated King's own skittishness about public journalism: "I felt before this project and I feel now that anything undermining the independence of the news organization diminishes its ability to do its job." King sees some redeeming value in applying public journalism principles to the opinion pages, but he adds, "When they take it a step further and say news reporters and news editors should be involved, I think they're dead wrong."

The swelling ranks of public journalists around the country would do well to consider King's experience in Philadelphia. Public journalism holds out the promise of reinvigo-



cisely for its potential to create ugly conflicts of interest.

Since its emergence several years ago, few topics have generated as much controversy in the media business as public journalism. Less a point-by-point program than an evolving philosophy, public journalism stresses solution-oriented reporting and seeks to make the news media a constructive force for civic improvement. Its advocates believe public

rating the news with community purpose. At a time when much of the public is alienated from the press and downright uncivil discourse fills the airwaves, any efforts to bring writers and readers closer together while promoting constructive community debate deserve some praise.

But there's a fine line between addressing community concerns and pandering to dominant local opinion, and an even finer one between encouraging the democratic process and becoming a stakeholder in particular outcomes. Public journalism's high-profile gurus have more cautious views of these issues than their critics usually credit, but in practice at least some public journalism initiatives threaten to subvert the very causes they claim to serve.

THE PUBLIC JOURNALISM GOSPEL

Although it's impossible to pinpoint an exact date or birthplace of public journalism, most students of the movement trace its lineage back to the 1988 presidential election, when voter turnout hit a postwar low and the quality of political debate seemed to hit rock bottom too. Around the country, reporters and editors shared the public's frustration with the meaningless debate about national priorities they had witnessed. Most just drowned their sorrow in cynicism about elected officials, but a few began to wonder if they, too, weren't part of the problem. Weren't they, after all, responsible for putting the ten-second sound bites on the air? Weren't they the ones who let the spin doctors off the hook every day?

One of the scribes asking those questions was Davis Merritt, Jr. A veteran of the Knight-Ridder Washington bureau and *Charlotte Observer*, Merritt was running the *Wichita Eagle* in 1990. He had a governor's race to cover, and rather than gather his staff for the same strategy meeting he'd presided over time and again, he decided to return this election to the people. He commissioned a poll of the state's voters, then used the results to guide his coverage. He had his reporters press the candidates on these issues, and when they wouldn't respond, he said so in the paper. The candidates got the message, and by most accounts the race was characterized by vastly improved debate and voter engagement.

Colleagues around the country, many already incubating similar ideas, took notice. They too

faced declining readership and were desperate to reengage the disinterested public. Following the lead set by the *Eagle* and a few others, these newspapers stressed the need to reach out to readers and focus stories on issues, not horse-race politics. They attempted to bring more voices into the coverage and even brought the candidates face-to-face with reader questions, if not the readers themselves.

Meanwhile, Merritt's path crossed Jay Rosen's. A well-known media critic at New York University, Rosen was a kindred spirit who shared Merritt's concern about the decline of political discourse and belief that the media's obsession with insider debates was part of the problem. Rosen also saw a connection between the media's failure to promote community problem-solving and the broader decline of civic engagement, or social capital, which was (and remains) the topic of much discussion in the academic community.

Collaborations ensued and a movement was born, with Rosen and Merritt emerging as its high priests. Today they have spread the public journalism gospel (as *American Journalism Review* aptly dubbed it) to dozens of local newspapers and have even trained their sights on the national media. Backed by both foundations and publishers who gleefully fund these experiments, the public journalism movement has gained a foothold in nearly every area of the country.

At first glance it's hard to see what the fuss is all about. At its most basic level, public journalism is nothing more than a way of reporting and framing stories. Rather than focusing exclusively on conflict and obsessing about detachment, public journalists attempt to write stories that provide solutions and, where appropriate, moral inspiration. Public journalists also go out of their way to include the voices of everyday people in their stories, particularly when it comes to political coverage, and to explore how the business of government affects the citizenry.

Old-timers gripe that this sounds a lot like good old-fashioned journalism, and they're right. But if

The
virtues and
perils of
activist
journalism

this aspect of public journalism isn't really an innovation, it's no less important for that distinction. Too many journalists today are content to sit behind their computers, analyze poll numbers, call a few experts or well-known spokespersons, and bang out a story without ever hitting the beat. "We've forgotten that people are at the heart of our business," longtime political correspondent Haynes Johnson wrote in a recent issue of *Nieman Reports*. "We spend precious little time and effort at the old-fashioned art of simple door-knocking."

Public journalism, though, goes well beyond simply reframing stories, and it is here the tension begins to emerge. Public journalism explicitly encourages newspapers to become activists for more constructive community discussions. This includes everything from convening focus groups to sponsoring town-hall-style meetings—and then incorporating those activities into the newspaper itself. It's all part of the grand conversation, as public journalists see it: "Without an engaged and concerned public, even the most public-minded press cannot do its job," Rosen wrote in a paper published by the Kettering Foundation. The problem today, he says, is that the press "addresses a 'public' it does little to help create."

These ideas challenge some of the most fundamental tenets of American journalism—chief among them the position of the journalist as a detached observer disinterested in outcome and dedicated wholeheartedly to chronicling the truth. While nobody disputes the need to encourage productive community politics, the question remains whether newspapers serve that cause best by becoming activists or by remaining an impartial observer to whom all parties can turn for an account of how things are and the way things could be. Speaking for a group that includes such heavies as the *Washington Post's* Len Downie and the *New York Times's* Gene Roberts, Max Frankel recently articulated the traditional line in the *New York Times Magazine*: "Reporters, editors, and publishers have their hands full learning to tell it right. They should leave reform to reformers."

There's reason for the concern. Nobody cares if a newspaper sponsors a debate between candidates, any more than they might care about a newspaper sponsoring a county fair. But when the newspaper begins to convene working groups on community problems—groups that wield influence, if

not actual power—how can the newspaper scrutinize what the group has to say? And when the newspaper joins forces with other local institutions, does it compromise its independence? The *Philadelphia Inquirer's* embarrassing episode could be a taste of things to come.

Editors should recognize that they need to create new walls to protect newspaper integrity, even as they break down the old ones between detachment and activism. Max King did that at the *Inquirer*, stipulating that future projects not involve funding from any local sources (profit or nonprofit) and maintaining an absolute ban on public journalism projects in the news pages. Those measures may seem extreme, but they are at least worth considering before newspapers begin working with outside institutions.

The more subtle danger inherent in public journalism is that it threatens to intensify the already troubling propensity to pander. Of the dozen or so public journalism practitioners I interviewed for this story, nearly every one invoked "consensus." One can debate whether the problem with American politics is too much political polarization or too little—this writer, at least, suspects the problem is more the latter—but even if the public journalists are correct that communities need to find more common ground, when did it become the newspaper's job to create it?

Historically, journalism's greatest contributions to politics have always come in the form of iconoclasm—editors and writers who took stands contrary to conventional wisdom, stretched the boundaries of debate with provocative reporting, and forced readers to think more broadly. The great art of journalism is not in restating what the public already thinks, but in getting the public to think differently. With its emphasis on consensus—not to mention its reliance on polls and focus groups to determine what issues to cover and now even what opinions to run on the editorial pages—public journalism champions a competing ideal.

Think about it for a second. What would have happened if the newspapers that pioneered civil rights coverage in the South had practiced public journalism? Would they have taken a more accommodating attitude toward the white establishment? Would they have searched for the "common ground" of separate but equal? "I grew up in the

South," remembers Margaret Leonard, an editor who recently left the *Tallahassee Democrat* in part out of frustration with its public journalism experiments. "Most of the people I knew didn't want to hear about civil rights, but it was in the newspaper so they had to read it—and it changed our country."

Had those newspapers included African Americans in their discussion, in effect desegregating the source of community opinion, the result might not have been so biased. To its credit, public journalism preaches inclusiveness, and the idea is to give a voice to as many people as possible. The project in which the *Democrat* is involved, for instance, has made issues of race one of its primary concerns, and many public journalism projects have focused on rebuilding inner cities.

But for all of its talk about the public good, public journalism exists within a commercial context—and today that context is one of desperation to attract subscribers and advertisers. Although newspapers increasingly have monopolies over their respective markets, they rarely have monopolies over reader attention. Between television and other alternative media sources, newspapers have been waging a losing battle to stem a nationwide decline in readership. The desire to reverse this trend helps explain why the nation's two largest newspaper chains, Knight-Ridder and Gannett, have invested heavily in public journalism projects, funding all kinds of experiments and touting their virtues whenever possible.

The concern, then, is that armed with a mandate to promote consensus and give the readers what they want—and feeling the heat from companies like Gannett to improve marketing appeal—newspaper editors will abdicate their agenda-setting role in the name of public journalism. Already, papers as varied as the *Boston Globe* and *Charlotte Observer* have used polls and focus groups to determine what issues they will cover most heavily in campaign coverage. The *Seattle Post-Intelligencer* has revamped its editorial page, doing away with unsigned editorials, playing down issues readers might find boring, and running more articles by members of the community. Dwayne

Yancey, a metro editor at the *Roanoke Times*, reports that when the newspaper polled the readership, it found that voters didn't care about specific stances so much as character, and set out to cover what it called "Issues of the Heart." These changes may make the newspapers more readable in the short run, but do they really improve the quality of political discussion?

It's possible to practice public journalism and still maintain an institutional voice. Yancey, for instance, says that of course his paper—and any other respectable news institution, for that matter—wouldn't let public journalism stand in the way of covering important issues. Rosen and Merritt will be the first to tell you that public journalism does not mean pandering, and that any editor who thinks otherwise isn't really practicing public journalism. But with newsroom resources already strained, emphasis on one set

of issues inevitably comes at the expense of others. And even if the *Roanoke Times* didn't sacrifice coverage of important issues to give the voters what they want, it's possible other papers will, no matter what the public journalism gospel says.

One reporter I know likens public journalism to "turning surgery over to the patient." (He works at a paper practicing it and asked not to be identified.) No doubt that comment exemplifies the arrogance and elitism public journalists see at the core of journalism's crisis. But it also contains some truth.

Attempts to bring more people into political life often suffer from the same problem: In their enthusiasm to expand the conversation, they overlook the legitimate role of political leadership. Newspapers infused with the spirit of public journalism could achieve the best of both worlds, providing a chronicle of events and promoting constructive problem-solving. But with so many other sources of information available on television, radio, and the internet, print journalists should remember the qualities that make them distinctive: their reputation for reporting the news without bias, and their ability to present what needs to be said, not just what the community is saying. □

The great art of journalism lies not in restating what the public already thinks, but in getting the public to think differently.

JOHN B. JUDIS

Not Just the Economy, Stupid

Jeff Faux and his Economic Policy Institute have consistently shed light on the dark recesses of the American economy—exposing the decline of wages that accompanied the Reagan and Clinton booms and debunking the promise of an export boom with Mexico. I agree with his criticism of Clinton's trade policies. But I don't feel the same enthusiasm about Faux's political prescriptions in "A New Conversation: How to Rebuild the Democratic Party" (*TAP*, No. 21, Spring 1995). Indeed, Faux's underlying political and historical premise is exactly what has crippled liberal Democratic thought since 1968.

Faux's prescription for the Democrats rests on a distinction between voters' core anxieties, which he views as economic ("the decline in real wages and living standards . . . at the heart of the anger and frustration"), and social anxieties about crime, welfare, and schools that he regards as peripheral. Faux argues that because Clinton Democrats address the core economic concerns inadequately, Republicans succeed in "diverting the economic question into a social one." And so the key for Democrats is to develop a compelling economic message and stop trying to compete with Republicans on social concerns. Clinton, he says, "will not get credit for a punitive [welfare] bill, just as he did not get credit for the crime bill."

This argument is an example of what Lenin, still to be respected as a political thinker, called "economism"—the reduction of motivation to a vulgar model of homo economicus. Faux's position rests upon a confusion of two kinds of causal relationships. He and other Democrats seem to be suggesting a psycho-political relationship. Deep down, Americans worry about their pocketbooks, but with Republican help, they displace these fears onto social concerns as a father anxious about his job displaces his anxiety onto his children's performance in

school. The task of politics is, therefore, to acquaint citizens with their real rather than imagined fears—a kind of therapy.

Imagine the following "new conversation" between one of Faux's therapist organizers and a demented Reagan (or Gingrich) Democrat:

Organizer: Look, Mr. Jones, you say you're worried about the break-ins next door and the drug dealers who hang out at your son's high school, but aren't you really worried about the fact that, counting for inflation, your wages have decreased 1 percent over the last two years and that other people in your position have been laid off?

Mr. Jones (pounding his palm against his forehead): I've never thought of it that way. God, you mean I am not really that worried about crime or my son's education?

A simple look around the country will confirm the absurdity of this approach. For two decades, Americans have been reacting to a decline that equally involves wages, schools, and neighborhood and urban crime. One aspect of this process is not necessarily more fundamental than another. For many middle-class Americans, the problems of crime and schools are much more urgent than those of wages. To put this still another way: Wages, neighborhood safety, and the availability of good schools are all part of Americans' standard of living.

At one point, Faux quotes a pollster's findings that Americans hold "highly negative" views about public schools in general but are "positive" about "the specific public school in their neighborhood." Faux suggests that Americans' concerns about school are not as "real" as their concerns about wages because schools have not declined as wages have. But the very wording of this finding—"in their neighborhood"—gives it away. Many Americans are somewhat content with the elementary schools in their neighborhoods, but as soon as their children reach about fifth

grade, they begin to panic. By the time their children are in junior high, they start thinking that vouchers aren't such a bad idea at all. I don't have any pollster to quote: I speak here as a suburban parent and as a journalist who has interviewed lots of voters.

Why does Faux's view seem so plausible to many liberal Democrats? One reason may be that they confuse psychological causation with another kind of causal relationship between the economic and the social. Sociologist William Julius Wilson, among others, has argued that a major cause of urban decline, high crime rates, fatherless families, and related problems is the loss of urban manufacturing jobs to the suburbs, the South, and overseas. In this sense, the real cause is economic. While this explanation has its limits, as Wilson has admitted, it has some plausibility; and its plausibility lends a false veneer of credibility to the psycho-political argument.

What Wilson and others describe as "economic" causes are far broader than the "economic question" of wages and jobs that Faux and other Democrats think really disturbs voters. Wilson is concerned with a historical shift in industry and the transformation of the urban working class that it has brought about. This process has equally affected jobs and wages, on the one hand, and welfare, crime, and schools, on the other hand. What Faux takes to be the "economic" and the "social" are both manifestations or effects of Wilson's industrial-economic causes. The loss of manufacturing jobs in Milwaukee caused a decline in wages among blacks, a rise of homicides, and the deterioration of the schools. And the residents of Milwaukee are right to be concerned about all three.

Should Faux's Democratic organizers talk about these industrial-economic causes? They certainly should, but they should not delude themselves into thinking that such conversations are a substitute for proposing remedies for crime or deterioration of the public schools. Ultimate historical causes don't necessarily imply ultimate political solutions: Lowell couldn't get its textile mills back from the Carolinas; Milwaukee probably won't be able to reclaim its lost foundries or breweries.

Faux's confusion about core and periphery, economic and social, and cause and effect subverts his history of the Democratic Party. "Historically," Faux writes, "Democrats have always been out of

sync with the white working class on social issues, most notably on race. Nevertheless, white workers voted Democratic for decades because they saw [Democrats] on their side on the central question of economic security and jobs." Not so. During the New Deal, the Democrats were very much in sync with what Faux calls "social" concerns, including those on race. The minute that northern Democrats began to diverge from southern Democrats on this issue—at the 1948 Democratic convention—the party began its decline, which after 1968 became precipitous. (The Democrats' only decisive presidential victory from 1944 to the present was in 1964, the result of the assassination's aftermath and voters' fears about Goldwater's foreign policy and opposition to Social Security.)

Faux is equally wrong about Clinton and his crime and welfare bills. Clinton won in 1992 largely because voters believed that he was a "different kind of Democrat" on these and related issues. Clinton understood correctly (Carville's slogan about the economy aside) that for the Democrats to regain their popular majority, they could not appeal to Americans simply on the basis of wages and job security. When he signaled his indifference to these other concerns at the beginning of his administration—by embracing the cause of gays in the military, through his cabinet appointments, and by putting off his welfare bill—he lost his credibility among voters and has never recovered it.

I am not suggesting here my own program for the Democrats in 1996 or beyond. The social fissures in the society and the Democratic Party itself may prevent Democrats from uniting successfully around anything other than opposition to Republican failure. I am also not siding with those "new Democrats" who argue that Clinton should have ignored the "economic question" in favor of welfare or crime. That argument seems equally shortsighted. Rather, I am contending that, contrary to Faux, the Democrats cannot hope to recapture their majority by focusing exclusively on what Faux defines as the "economic question." Doing that won't counter Republican proposals for addressing crime, welfare, or schools. If the Democrats adopt Faux's new conversation, they will simply confirm to middle-class voters the old Republican charges—first voiced by Richard Nixon in 1968—that the Democrats either don't understand or are hostile to their concerns.

JEFF FAUX RESPONDS:

John Judis often provides us with sharp insights about contemporary politics. But on this matter he is confused. There is both less and more in dispute here than meets his eye.

Let's first clear away the straw man. Nowhere do I assert that the Democrats should focus "exclusively on economics." I said Democrats who sound like Republicans on economic issues lose because they are not credible as social conservatives. Having misstated my point, Judis goes on to redefine my economic view as a simple-minded notion that we can bring back the lost textile mills to Lowell. He then sits the straw man on top of an even more rickety straw theory of "core-and-periphery" psychological "economism."

However, all this is Judis's fanciful construct, not mine. In fact, I'm happy to accept his own formulation that a "historical shift in industry and the transformation of the urban working class that it brought about . . . has equally affected jobs and wages on the one hand, and welfare, crime, and schools on the other hand." I will go further: voters will often be more concerned about crime, sometimes about education, and occasionally about welfare, than they are about falling wages and the disappearance of decent jobs. We both accept an "economistic" view of the origin of these problems and agree that voters are angry about almost everything.

But the subject is strategy. Here is where we part company. Acknowledging that both social and economic issues concern voters does not necessarily mean that they must all be equally emphasized by liberal Democrats in challenging the conservative Republican story of how the world works.

Contrary to Judis's astounding claim that Democrats have been following my prescription since 1968, the Democrats have no story line of their own in which to locate their policy proposals. When pollster Celinda Lake asks focus groups to write down their understanding of what Democrats are for, she gets back lots of blank paper. Is this because Republicans have come up with better technical answers for crime, education, or welfare than Democrats? Hardly. It is in large part because Democrats are trapped in the Republican story that the problems that threaten the average voter come from out-of-control big government. Thus, Demo-

crats should challenge conservatives with a story that reflects what Judis himself agrees is the economic cause of much of our problems.

This makes sense for two reasons. First, the decline in incomes and living standards of their natural constituency in the bottom three-quarters of the workforce will certainly continue throughout the rest of this decade. Second, unless Democrats can challenge the conservative tale that private markets are always superior to public management and that natural rates of unemployment are fundamental laws of nature, they cannot prevail—not just in electoral terms but in the sense of building a better society that gives higher priority to human values.

Judis concedes that my imagined organizers should talk about the economic causes of our present condition, "but they should not delude themselves into thinking that such conversations are a substitute for proposing remedies for crime or deterioration of the public schools." Again, I do not propose that. But neither should Judis deceive himself that liberal remedies are possible unless Democrats reformulate the economic question.

For one thing, liberal remedies require money. Take welfare. Any student of this issue understands that up-front investment in education, training, child care, and job creation is necessary for a progressive solution. But having bought into the conservative economic paradigms that give deficit and tax reduction top priority, liberals have no money. (Money is not a sufficient condition for effective change, but it is a necessary one.) Having conceded the economic principles to the other side, Democrats' "proposed remedies" are weak—either watered-down versions of conservative ideas or oversold pilot programs that everyone knows will not be adequately operationalized. Democrats themselves grow skeptical about the ability of government to deliver, and increasingly join Republicans in braying about the breakdown of social values—divorce, teenage sex, and dysfunctional families—about which politicians can do little. Yet, terrified of being tagged as a friend of government, they avoid addressing seriously the financial deterioration of the middle class, over which public policy can have some influence.

Judis does not explain his "remedies," but his discussion of crime illustrates how focusing on social issues outside the economic context pulls us right. According to Judis, Clinton was not credible

on crime because he alienated the populace by “embracing the cause of gays in the military, through his cabinet appointments, and by putting off his welfare bill.” I am baffled by his reference to the cabinet. (In a cabinet dominated by Lloyd Bentsen, was Donna Shalala too big for Bubba to swallow?) And I’ve made the point about welfare, so let’s deal with gays in the military.

Everyone agrees that Clinton horribly mishandled the affair. But our concern here is with issues, and there was, after all, a fairly fundamental question for people who profess to be liberals—the right of gay people to serve their country, a right they have in all other advanced nations. Judis suggests that Clinton should have traded this off in order to gain credibility for a crime bill that provided the electric chair for 60 more federal crimes and allocated scarce new dollars for prisons already stuffed with small-time pot sellers. This reflects a doomed strategy of retreat, in which the question of the day is about which of our principles we should throw to the right-wing wolves.

Neither is it clear that a trade-off of gay rights would have provided liberals with the prized credibility on crime. Since Judis has opened up the theater of the political absurd, let me use it to stage a different scene.

Judis: “Look Mr. Jones, you say you’re worried about the break-ins next door and the drug dealers who hang out at your son’s high school? But aren’t you really worried about the fact that gays are allowed to serve in the armed forces?”

Mr. Jones (pounding his other palm against his forehead): “I’ve never thought of it that way . . . etc.”

Judis is right that our disagreement leads us to see history through different lenses. But whether we date it at 1948 or 1968, there is no doubt that the Democratic Party paid a high price for being the political instrument of integration in postwar America. Lyndon Johnson’s Civil Rights Act was arguably more politically courageous than Lincoln’s Emancipation Proclamation. LBJ accurately predicted that it would lose the segregationist South for the Democratic Party. The political tragedy is that the Democrats did not think through a strategy that would compensate for that loss. They still do not have one. My position is that such a strategy should be grounded in an economic argument.

Judis says Clinton won the 1992 election not on

economics, but because he was a “different kind of Democrat.” Presumably, given Judis’s analysis, the difference was a less sympathetic attitude toward minorities—Sister Souljah and all that. The election results were clearly more complicated than this conventional DLC wisdom. Ruy Teixeira has pointed out that Clinton got a slightly smaller share of white votes than did Michael Dukakis four years earlier and that a uniting characteristic of both Clinton and Perot voters was the experience of real wage declines. As I have written elsewhere (see “Myth of the New Democrat,” *TAP*, Fall 1993, No. 15), Democrats in every election starting with 1976 have run as a “different kind of Democrat.” Even the liberal Walter Mondale made cutting the budget deficit the center plank in his platform. Clinton did win on “the economy, stupid.” But the major economic issue had less to do with Clinton than his opponent. If George Bush had prevailed on Alan Greenspan to cut interests rates earlier, he would still be president.

It is not enough for liberal Democrats to come up with technically sound programs to separately defined problems of crime, education, welfare, jobs, etc. Unless they can come up with a different story—a challenge to the conservative assertion that minimalist government is the best strategy for middle-class prosperity in this new global economy—they are condemned to an increasingly futile effort to search for Judis’s “remedies” under tighter and tighter fiscal and ideological constraints. Economics is not the only issue, but it is the battleground where conservatives hold the weakest position. Therefore, it is the best place to engage them.

Finally, I appreciate that Judis speaks from the heart, as well as the head, as a suburban parent outraged at drugs in the schools. Policy debates are improved by a dose of real life. But there are a variety of liberal experiences. My own suggests that it is possible to send your kids to public schools without being panicked into supporting vouchers, to wait on line at the motor vehicle bureau without concluding that it should be privatized, and even to be mugged with a gun in your chest and not believe that frying more people in a federal government electric chair will do much for the crime rate.

So, buck up, Brother Judis. These are hard times. But with a little strategic imagination and a lot of work, liberals might yet get to play a few more tunes on the keyboard of American history. □

MICKEY AS COPYCAT

To the Editors:

I enjoyed your piece on Soviet-style central planning by the Walt Disney Company (Joshua Wolf Shenk, "Hidden Kingdom," No. 21, Spring 1995), but you give the company too much credit. That kind of planning was invented most recently in the nineteenth century by the British company towns, and was copied by American ones—e.g. Pullman, Illinois, and Hershey, Pennsylvania—about which books have been written, as well as a large number of less famous towns—mostly iron, coal, copper, and other mining towns—all around the country.

A public version of such planning was pursued, on the one hand, by the city planners whom Jane Jacobs and others have attacked and, on the other hand, by the big private builders. For example, Bill Levitt Jr. went for "political insulation" by buying an entire township when he built the third of his Levittowns in New Jersey. He did it in part for self-defense reasons when the politicians and voters of the various townships over which the earlier Levittowns were spread began to alter his plans. Ultimately, however, so did the voters of that third Levittown the moment they could outvote the old-timers whose land Levitt had bought. (They too numbered little more than 40.)

And what you wrote about the "upstart citizens" of Columbia, Maryland, has taken place in other postwar new towns. The first time I remember is in Park Forest, Illinois, just south of Chicago, in 1948 or 1949. Usually the citizens win, even when it involves the private usurpation of public space rather than obtaining public control over the privately built community they have bought, but that

doesn't happen when the citizens are also the builder's employees—or, as in Disney's case, transitory customers.

Herbert J. Gans

New York, New York

Mr. Gans is Robert S. Lynd Professor of Sociology at Columbia University.

THE YOUNG AND THE RESTLESS

To the Editors:

Jonathan Chait's "Deficit Hypocrites, II" (Devil in the Details, No. 20, Winter 1995) offers an eyeful of snide attitude. Unfortunately for Mr. Chait, sarcasm is no substitute for thorough reasoning.

Third Millennium wants to ensure that today's debts are not passed on to future generations. Mr. Chait does not find fault with this goal, at least directly. Instead, he suggests that Third Millennium members should prostrate themselves before their elders and give thanks for such gifts as paved roads and competent teachers. The implication is that young Americans should only acknowledge the goodies and ignore the booby prizes, such as a Social Security system that's scheduled to go bankrupt before anyone in Generation X retires, and a \$4.7 trillion national debt.

As for health care reform, Third Millennium did not declare "a generational jihad" against it, as Mr. Chait suggests. In fact, we have always enthusiastically supported reform—as long as it was generationally equitable. Our opposition to "pure community rating" is rooted in the insupportable financial burden it places on the young. For evidence of this, look at pure community rating's implementation in New York State, where more than 400,000 people have dropped their coverage since April 1993.

Mr. Chait's generational case for

pure community rating is simple: "You pay more when you're 26 so you can afford insurance when you're 56." If this is such a good idea, why don't we exaggerate it, and force all insureds under age 30 to pay their entire life's insurance burden over a five to eight year span? Then, when these insureds hit 30, they're entitled to enjoy free insurance premiums for the rest of their lives. The reason why we don't do it is simple: Young people could not afford it, the same way young people cannot afford the recent 170 percent increases in premiums under New York State's community rating provisions.

No one knows precisely what the future holds. But if today's Americans are in the position of helping shape the future, we should look to see what the likely consequences of our actions are. And when it comes to Social Security, we face a demographically strained system that's scheduled to go bust in 2029, leaving my children and grandchildren in the unenviable position of having to carry the weight of the entire retired baby boom generation just as Generation X prepares to retire. If in the intervening years my children and grandchildren are first required to pick up the tab for my health insurance, aren't we passing on to future generations a set of burdens that are impossible to meet?

Richard Thau

New York, New York

Mr. Thau is executive director of Third Millennium.

To the Editors:

I would like to commend Heather McLeod for her excellent article, "Selling Generation X" (No. 21, Spring 1995).

The generational advocates have captivated the media's attention. They have established a presence in the game of interest group politics with

virtually no grassroots support, relying instead on access provided by divisive and ferocious rhetoric.

McCleod questioned their sources of funding, a critical point which can be taken further. As Common Cause reported several years ago, a large portion of financial support for Senator Durenburger's Americans for Generational Equity (AGE) came from defense contractors, banks, and insurance companies. Pete Peterson, a former investment banker, continues to play an important role in the generational debate, as an official adviser to the generational groups, chairman of the National Commission on Entitlement and Tax Reform, and executive director of the Concord Coalition, among others. A longtime foe of Social Security, Peterson has seized upon the generational debate to legitimize his attack upon the system.

There is a two-part phenomenon underlying generational politics: It shifts the deficit debate away from issues like defense spending and tax equity and toward Social Security; and it provides a potential avenue for insurance companies and investment houses to slash public control over the enormous pension resources of the Social Security system.

One of the most important actors in the generational debate is an economist named Lawrence Kotlikoff. Mr. Kotlikoff developed "generational accounting," a method that predicts astronomical tax rates in the coming decades, thanks to social insurance. Mr. Kotlikoff's method is rejected by nearly every authority on the system, including Robert Ball, Robert Myers, Henry Aaron, and Daniel Patrick Moynihan. Nonetheless, Kotlikoff is often represented as an "unbiased academic"; his version of Social Security was quoted by Sylvia Nasser at the *New York Times* only a week ago, to choose but one example.

More telling, however, are

instances such as a full-page, major-periodical advertisement taken out by Merrill Lynch, entitled "The American Dream: Can It Be Saved?" Merrill Lynch commissioned Kotlikoff to produce a "comprehensive new study," and called the whole thing "Saving the American Dream." Not surprisingly, Mr Kotlikoff's recommendations turn out to benefit the insurance and investment industries.

The larger picture reveals that groups like Third Millennium, while well-meaning (and generally liberal-minded), are playing into the hands of greater powers. Their rhetoric does not permit them to discuss the real problems with our society, which are not "generational." They capitalize on the insecurity and cynicism of young people, but only promise to make things worse.

*Hans D. Riemer
Santa Cruz, California*

FORTUNES OF THE FOURTH ESTATE

To the Editors:

I enjoyed and agreed with your article on how the salaries of media folks affect their ability to cover the news (Jonathan Cohn, "Perrier in the Newsroom," No. 21, Spring 1995).

In 1991-92 I was a Nieman Fellow at Harvard. When I was there, I spent a fair bit of time in South and East Boston. Starting in January of 1992, I started to pick up signs that then-President Bush was in trouble—you just had to listen to the folks having coffee and a smoke at Dunkin' Donuts every morning. I told my American Nieman friends that based on what I was hearing on the street (and often reading in smaller regional papers), the Democrats were going to win in 1992.

Needless to say, they all told me I was crazy. That's not what their editors were telling them, they said. You just had to read the papers or watch

TV to know what was happening.

I said that was just the problem—the big papers and the TV networks didn't have a clue, because most of their political correspondents hardly ever got outside the beltway. This point was driven home to me again when the Shorenstein Barone Center held a conference, and several high-profile Washington media types graced us with their presence.

To a person, they said the big factor in the race would be Clinton's character flaws. Meanwhile, almost every question from the audience concerned economic issues. Not one of these media personalities noticed the difference between their view and the audience's view of what was important. In the end, I won a quite a few bets—not to mention the odds I was given.

*Tom Regan
Cambridge,
Massachusetts*

Mr. Regan is a Canadian freelance journalist currently based in Boston.

ERRATA

Joshua Wolf Shenk's article, "Hidden Kingdom," (No. 20, Spring 1995) misspelled Professor Richard Foglesong's name and incorrectly identified an article Foglesong wrote as appearing in the *Orlando Post*. It ran in the *Washington Post*.

The American Prospect welcomes correspondence. Brief letters are preferred and stand a better chance of being published. Letters must include the writer's name, address, and telephone number and may be edited for length. Send letters to *The American Prospect*, P.O. Box 383080, Cambridge, MA 02238, or via e-mail to tap@epn.org.

WHAT THEY'RE SAYING ABOUT THE FINDINGS IN

TOP HEAVY

A STUDY OF THE INCREASING INEQUALITY OF WEALTH IN AMERICA
A Twentieth Century Fund Report, by Edward N. Wolff

"After years of little change, inequality exploded in America starting in the 1970s."

—THE NEW YORK TIMES

"New Figures Show Wider Gap Between Rich and Poor"

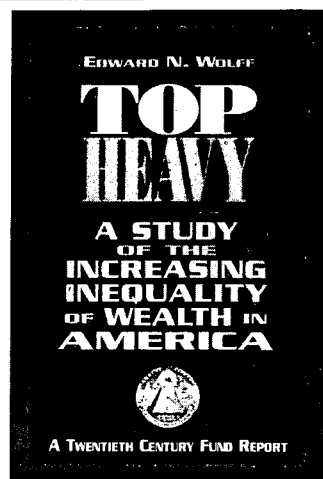
—THE CHRISTIAN SCIENCE MONITOR

"A Rising Tide Lifts the Yachts"

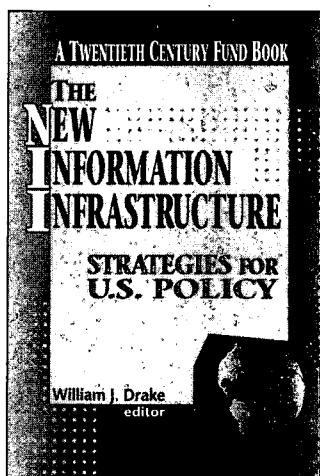
—NEWSWEEK

TOP HEAVY is being widely quoted because of the disturbing questions it raises about the widening wealth gap that threatens to turn the United States into a land of haves and have-nots, with few left in the middle. **Edward N. Wolff's** study for the Twentieth Century Fund analyzes the latest data and finds that in the 1980s, the share held by the top 1 percent of wealth holders grew by 5 percentage points, while the bottom 40 percent suffered an absolute decline. He also finds that all the gains in wealth during the 1980s went to the top 20 percent of wealth holders.

Available now: ISBN 0-87078-360-2, paper \$9.95, 93 pages



AVAILABLE AUGUST 1995



THE NEW INFORMATION INFRASTRUCTURE

STRATEGIES FOR U.S. POLICY

A Twentieth Century Fund Book, Edited by William J. Drake

As the new global information economy approaches, the structure of emerging industries will have a direct effect on all Americans. This book explores numerous policies needed to ensure that business and government develop a framework that balances the many competing private and public interests involved in the historic transformation now under way.

TO ORDER CALL 1-800-275-1447, GIVE REFERENCE OA25
WASHINGTON, D.C. RESIDENTS CALL 797-6258

THE TWENTIETH CENTURY FUND

41 EAST 70TH STREET, NEW YORK, NY 10021 ♦ 212-535-4441

PLEASE WRITE OR CALL FOR A FREE CATALOG OF ALL TCF PUBLICATIONS

SENATOR DOLE'S GREATEST HARVEST

BY GLENN R. SIMPSON

When Senate Majority Leader Robert Dole announced his presidential candidacy April 10, his Midwest roots figured prominently in the speech. "Our problems are not too difficult to handle," he said in Topeka, Kansas. "It's just that our leaders have grown too isolated from places like Topeka—embarrassed by the values here."

It's not clear whether Dole included himself in his reference to "our leaders," but perhaps he should have. Although Dole presents himself as an advocate of political reform, he maintains one of Washington's oldest and most extensive fundraising machines. He has torpedoed past efforts at reform, and in May he brought to the Senate floor a Republican proposal to scrap public financing for presidential elections. Dole's campaigns have admitted to intentionally violating campaign laws in the past, and today an array of loosely affiliated organizations that Dole created raises large sums of money from a few wealthy interests with a stake in the senator's legislative work. The laws governing political fundraising, passed in 1974, were supposed to prevent financiers from using their donations to obtain influence with public officials. But the laws do not effectively regulate money that goes to ostensibly independent bodies—a loophole Dole appears to have successfully exploited.

In a prepared statement, a Dole spokesperson said that "there is absolutely no connection between the Dole for President campaign and any other organizations that Senator Dole supports." But a closer look at Dole's record, pieced together from public records and interviews, shows that these organizations have advanced the senator's ambitions while maintaining close ties to his campaign and Senate offices:

A CASE STUDY IN HOW OFFICIALS DEFY LIMITS ON FUNDRAISING

Editor's note: At press time, Senator Dole announced that the Better America Foundation, a focus of this article, was disbanding. In the weeks leading up to the announcement, the American Prospect had confronted the Dole campaign with questions about the foundation's involvement with Dole's Senate and presidential campaigns, while the Associated Press reported that the foundation was conducting activities useful to a presidential bid.

This is the second in a series of profiles of politicians and their fundraising networks. The first article, "How Money Votes: An Oklahoma Story" (TAP, No. 19, Fall 1994), was about Congressman Bill Brewster, a Democrat on the Ways and Means Committee.

For subscriptions and bulk reprints call 1-800-872-0162.

■ Campaign America, the independent political action committee Dole founded, has promoted Dole's candidacies for the Senate and the presidency by staging events at which Dole appears; it has also provided resources that work to advance Dole's ambitions. In effect, this has allowed Dole's supporters to finance Dole's causes well in excess of what they could legally give directly to Dole's campaigns.

■ The nonprofit issues foundation Dole founded, the Better America Foundation, has helped lay the groundwork for Dole's presidential bid by providing staff and resources whose work directly or indirectly advances Dole's candidacy. The foundation has regular contact with Dole's Senate staff, originally resided in Campaign America's office, and has commissioned polling by the same firm Dole's campaign uses. And unlike Campaign America, the foundation does not have to disclose its sources of funding.

■ Through Campaign America, Dole accepts hundreds of thousands of dollars worth of cut-rate air travel from corporations that benefit from his legislative activities—the same corporations that also donate generously to his foundation and benefit from his legislative work.

■ As documented in the *New York Times* and elsewhere, Dole benefitted from a preferential real estate deal arranged by one of Washington's most notorious influence seekers, Archer Daniels Midland CEO Dwayne Andreas. Dole continues to accept ADM money for his foundations and PAC, all the while doing ADM's bidding on Capitol Hill.

■ In another episode already reported by the press and investigated by a congressional committee, Dole used the power of his office to aid the business interests of one of his top fundraisers, who in turn used his business interests to increase the value of Dole's own financial holdings.

Of course, the real significance of this pattern—much of which has not been previously reported—may lie not in what it says about a particular senator or even a presidential candidate, but in what it tells about our system for regulating political fundraising. Dole's story is all too emblematic of how high-profile politicians use an array of loosely affiliated PACs and nonprofits to fill their fundraising coffers, shore up loyalty among potential allies, and build long-term relationships with the nation's

wealthiest interests. It is also indicative of how the public and the press, increasingly desensitized to conflicts of interest, are willing to give veteran politicians a free pass for sins of the past. Oddly, Dole's campaign finance history has gotten virtually no ink in the national media this election cycle. To be sure, Dole is not the only prominent public official engaged in these practices. But Dole was a pioneer of these tactics, and he remains one of the most successful at employing them.

THE SENATOR'S NEW CLOTHES

Although virtually every candidate for office poses as a man of the people, the gap between rhetoric and reality is particularly glaring in the case of Dole, a millionaire who has lived in Washington for three decades and makes his home in the Watergate complex.

Dole can talk good-government reform with the best: "When these political action committees give money, they expect something in return other than good government." Dole said in 1983, observing that "there aren't any Poor PACs, or Food Stamp PACs, or Nutrition PACs, or Medicare PACs." But even as Dole championed the reform cause, he worked behind the scenes to smother it. In December 1985, during his first term as Senate Majority Leader, Dole headed off a popular reform proposal by promising it would get a vote in 1986. Congress did vote on the bill late that year, passing PAC reforms overwhelmingly; yet Dole himself voted against the PAC limits, and—as the Associated Press put it—"he appeared in no hurry to bring the matter to the floor." Bowing to that proposal's popularity, Dole promised the Senate would vote on it for final passage in a few days. It never did.

That November, Democrats captured control of the Senate, and vowed to enact reform. Again, Dole publicly supported the effort: "I do not believe there will be any effort to stall any such legislation," he promised. But the next fall, Dole led a marathon filibuster against the Democrats' bill, declaring it an incumbent-protection measure and promoting his own plan, which would have threatened him much less.

In the new session of Congress convened in 1989, Dole again proposed campaign finance reform, as did the Democrats. "We Republicans are determined to bring grassroots politics back to the campaign scene," Dole wrote in an op-ed for

the *Washington Post*. Once again, however, partisan disagreements stalled the reform drive. This time a bipartisan reform panel was convened to make recommendations, with Dole selecting half the panel's independent experts. "I do believe there is some hope we can form a bipartisan compromise based on the [panel's] recommendations," Dole said in 1990. "If we're really concerned about cleaning up the campaign sewer money, then it's about time to spray the sewer stench with a big can of Lysol."

Yet just two months later, Dole and other Republicans offered legislation that completely ignored the recommendations of their own appointees for flexible spending limits. "We can either get serious or continue to make speeches and protect the status quo on Capitol Hill," Dole said, even as he insisted he could not abide by what the bipartisan reform panel recommended. Shortly thereafter, Dole and his colleagues opted for more speeches and the status quo.

The stalemate has continued through the 1990s. In 1994, Dole and his fellow Republicans killed the Democrat-sponsored campaign finance bill, the most ambitious attempt at reform since 1974. And this year, with Dole again the Senate Majority Leader and setting his party's agenda, he has uttered hardly a word about campaign finance reform. Instead, in May Dole joined conservatives in calling for a rollback of presidential public financing, the one initiative thought by most reformers to have had any success at all.

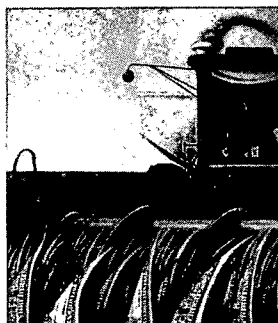
POCKET PICKING

The most familiar part of the Dole fundraising machine is his Senate campaign committee, Dole for Senate. According to records on file with the Federal Election Commission (FEC), since 1987 the committee has raised \$3.26 million, with large

chunks coming in from individuals and PACs associated with a few powerful interests: the Gallo winemaking family, the Fisher Brothers real estate firm, conglomerate American Financial, US

Tobacco, and agri-giant Archer Daniels Midland. Though all of these companies have benefited directly from Dole's work in Congress—as we will see later—there's nothing illegal about this money. It was all raised in small increments that never exceeded the limits on contributions set in 1974. (Under that law, individuals can give only \$2,000 to the committee per six-year election cycle, while PACs can give \$10,000 per six-year cycle.)

But behind the Senate committee are a host of other fundraising operations that pump thousands of dollars more into events and projects that advance his political ambitions—even though they are ostensibly unconnected to Dole's candidacies. Chief among these is Campaign America, the political action committee created by Dole and staffed primarily by former Dole advisers. Campaign America calls itself "independent" and "multicandidate,"



Ostensibly independent, Campaign America pumps thousands of dollars into projects that advance Dole's political ambitions.

and in theory enjoys no special relationship with the Dole campaign. "Senator Dole set up Campaign America to promote and assist state and federal Republican candidates, and Republican organizations and parties," a Dole spokesperson said. "For the record, in the last cycle Campaign America gave contributions to over 400 candidates in 47 states—even candidates who support other Presidential contenders."

Because of that status, Campaign America can accept donations like any other PAC, at levels well in excess of what Dole's campaign committee can take, just so long as it gives no more than \$10,000 per election cycle to Dole himself. But that, of course, is the catch. In practice, Campaign America's treasury pays for political functions and

maintains a large cadre of consultants, pollsters, and political staff, whose work continues to benefit the senator directly or indirectly. In addition, through the Campaign's travel account, Dole accepts tens of thousands of dollars worth of airfare from his corporate patrons (which his campaign then reimburses at minimal cost). Many of the providers of corporate aircraft to Dole are his biggest funders in hard cash, including ADM, American Financial, and US Tobacco. A review of Dole's campaign filings shows that he has accepted at least 151 trips on corporate jets since 1987, including 29 on the Federal Express executive jet and 15 on a jet provided by the NTC Group of Wappinger Falls, N.Y.

Dole takes in still more money through Campaign America by using it as a conduit for contributions to other Republicans from his major financial backers. On December 26, 1990, for example, public records show that members of the Gallo family and Gallo executive J.E. Coleman gave Campaign America \$10,000 that did not count against the PAC's limits because it was funneled directly to the campaigns of Republican Senators Steve Symms, Alfonse D'Amato, Robert Kasten, and John McCain. The beauty of this system is that Dole gets credit for giving money to his Republican colleagues (thus potentially buying their allegiance in future presidential bids) without having to bump up against the FEC's contribution limits.

Dole has even used Campaign America to finance his presidential bids, though these activities have attracted attention from the Federal Election Commission. In 1993, the FEC determined there had been involvement by Campaign America in Dole's 1988 presidential race. On at least four occasions in early 1987, the agency found, Campaign America staged events in Iowa, site of the nation's first caucus, which benefited Dole's presidential bid despite Dole's failure to register as a presidential candidate and Campaign America's status as a PAC.

Invitations for the events were virtually identical to invitations later used by Dole's presidential committee and were printed by the same firm. "During this meeting I would like to hear your views and concerns while sharing some of my own with you regarding our shared Republican future," the invitations by Dole stated. Less subtle was a memo produced by Campaign America around the same

time that stated, "Offer Iowans a friend in the White House," and a flyer that stated, "If Senator Dole is running for the White House, he's off on the right foot."

The events cost Campaign America some \$33,000, and it spent other money on telemarketing in Iowa and purchases of voter lists in New Hampshire, site of the first presidential primary. Among other things, Campaign America obtained a business telephone line in New Hampshire that it later turned over to Dole's presidential campaign. All told, the FEC found, Campaign America spent about \$47,000 on behalf of Dole's presidential bid, \$42,000 more than the law allows. The FEC said Dole's presidential campaign "knowingly accepted" the help.

And that may not be the whole story. According to the agency's original investigative report on the case, Campaign America sponsored 19 events in Iowa in 1986-87. All were "town meetings" similar to the four the FEC said were in violation of the presidential campaign laws. The FEC dropped from its case these and several other instances of possible violations, such as purchases of voter lists and campaign materials, for unknown reasons. (Records of FEC negotiations are strictly confidential.) Even so, though, the FEC ultimately fined the Dole campaign a record \$100,000 and ordered Campaign America to cough up another \$12,000.

While the FEC required both to admit that they broke the law, Dole was unapologetic, issuing a statement admitting nothing and belittling the case, saying, "This bureaucratic process is the best example yet of why we don't need public financing of congressional campaigns." In fact, Bob Dole's offenses took place in the privately financed presidential primary campaign, not the publicly financed general election.

Today, Campaign America is alive and well. Among its other activities, in January Campaign America made contributions to 17 state legislators in New Hampshire, where Dole has been courting support for his presidential bid. The PAC also pays payroll taxes in Iowa, indicating it has staff stationed there.

SHAKY FOUNDATIONS

Dole's other big fundraising organs are his non-profit foundations, chief among them the Dole Foundation for People With Disabilities. The foundation, which raised about \$1.25 million last year,

is a bottomless pocket: Dole's supporters can give unlimited amounts at any time, and get a tax deduction to boot.

In accordance with the laws governing public charities, the foundation is ostensibly nonpartisan. To its credit, it is engaged in charitable works rather than the senator's political operations. But look closely at the list of foundation contributors. My analysis of public information shows that better than 65 percent of its backers also happen to be Dole campaign contributors. American Financial Corporation is a supporter, as is the Andreas Foundation and the Archer Daniels Midland Company. The Gallo Foundation is a contributor, as is US Tobacco. In its 1990 report, the foundation singled out Gallo, ADM, AT&T, oilman William Keck, and Massachusetts Mutual Life Insurance Co. for having been "exceptionally generous in support of its programs." All five also happen to lavish Dole with campaign support.

"To suggest ... some link between the Dole Foundation for People with Disabilities and politics is simply insulting," Dole's spokesperson said. "Bob Dole has lived with a disability for 50 years. And the purpose of his foundation is to help others deal with the same kind of challenge." To be sure, it is entirely possible that all of the foundation's supporters simply like the foundation's good works. However, it is also likely some of them want Dole to like them.

Unlike the disabilities foundation, the Better America Foundation engages in political activities. Campaign America's director quietly set up the foundation in 1993, and it has received attention only recently. Technically a broad-based social welfare organization, the unit originally resided in Campaign America's office and is now under the direction of a senior Dole aide, Jim Whittinghill, who left the Senate payroll to head the organization. Last year, the Better America Foundation raised \$4 million, according to its tax return.

As with Campaign America, Dole's only official position at the foundation is "honorary chairman." But last October, right before the elections, the foundation ran a series of television ads supporting the balanced budget amendment. Produced by a consulting firm with longstanding ties to Dole's presidential campaigns, the ads prominently featured Dole. In addition, there is considerable

crossover between the foundation staff and Dole's circle of political advisers. The architect of the foundation was Jo-Anne Coe, the longtime Dole aide who helped manage his previous presidential and Senate campaigns and was running Campaign America when she set up the foundation. Another former Campaign America official is the foundation's finance director, while a former Republican National Committee aide and ex-Dole staffer is the group's political director. The foundation also uses the same polling firm as Dole's presidential campaign, Public Opinion Strategies, and the Associated Press reported that Whittinghill confirmed the foundation "solicits Dole's ideas, shares its work with him, and meets regularly with his Senate staff."

Absent evidence that the Dole campaign is coordinating campaign activities with any of these agents, none of this is illegal. If Dole happens to benefit from this arrangement incidentally, the law permits it, even though that effectively allows Dole's donors to circumvent limits on individual donations and direct extra money to his political cause. The purpose of those limits, of course, is to prevent legislators from serving the interests of their financiers rather than their constituents—which is what Dole apparently did when he acted on behalf of a failed natural gas subsidy three years ago.

DOLING OUT LEGISLATION

In September 1992, Dole won passage of an amendment renewing a generous tax credit called "section 29," which subsidized natural gas taken from geologic formations that are difficult to access. First passed in 1980 during the energy shortage, section 29 sought to foster American energy independence by spurring production of alternative fuels. Since Kansas is a major producer of natural gas, Dole's motives seemed obvious enough.

But were they? By the mid-1980s, a glut of natural gas had severely depressed gas prices. When the amendment was up in 1992, most senators

What
corporate
interest did
section 29
really
benefit?

from natural gas states—including Republican Don Nickles of Oklahoma and Democrat John Breaux of Louisiana, patron saints of the petroleum industry—wanted to kill the credit to discourage overproduction. The Natural Gas Supply Association, which represents 90 percent of the nation's natural gas suppliers, opposed the Dole rider, as did the American Petroleum Institute. Also against the program were the independent natural gas producers of Kansas, a consortium of smaller companies from Dole's home state.

But a handful of large companies with the resources to embark on these projects—Amoco, Arco, Coastal, and Enron, plus a few other large corporations with investments in drilling—were making a killing off the subsidy. Because the credit was so generous and the price of gas so low, the few companies producing the gas were getting a credit equal to about 92 percent of the price of the commodity they were producing. In other words, for every dollar of gas they sold, the companies also received 92 cents in tax credits.

By 1992, Coastal and Enron were banking heavily on section 29's renewal. According to *World Oil*, a trade magazine, the two companies had accelerated their efforts on drilling projects eligible for the subsidy. By the fall, the magazine said, section 29 covered 78 percent of Coastal's gas drilling and 80 percent of Enron's. Officials from Enron and Amoco, which also drilled hundreds of section 29 wells in 1992, told *World Oil* they would eliminate virtually all such projects in 1993 if the tax credit expired, because they would no longer be economical.

Amoco, Arco, Coastal, and Enron are all long-time backers of the Dole Foundation and Dole's campaigns. Since 1987, the companies' executives have given at least \$48,000 to the Dole campaigns and more into the Dole Foundation. Coastal, in particular, has been extremely generous with its corporate jets, allowing Dole to use them four times in 1992 alone, including a trip to the Republican National Convention in Houston. Coastal CEO Oscar Wyatt held a \$1,000-a-person fundraiser for Dole during convention week, where Enron executives gave at least \$7,000, while Coastal officials put up at least \$9,000.

Also profiting from section 29 was AT&T, which went into the gas business for the tax benefits. AT&T, it turns out, has given Dole at least \$20,000 since 1987 through its PAC, while the AT&T

Foundation has given Dole's foundation at least \$100,000. Gerald Lowrie, AT&T's senior vice president for government affairs and the company's top lobbyist, serves on the board of the Dole Foundation and helps raise funds for the group.

Apparently, the investment caught Dole's attention. Dole brought his amendment to the floor in September 1992—only a month after the fundraiser at Wyatt's mansion. Dole contended the subsidy was vital to America's energy security, even though the nation then (as now) enjoyed an abundance of cheap fuel. Because the debate was so complicated and obscure, the press barely noticed. Nobody bothered to investigate whether "energy security" was the real explanation for Dole's motives.

Despite some substantial opposition—spearheaded by New Jersey Senator Bill Bradley—Dole prevailed on the Senate floor with support from Senators representing energy-consuming states whose citizens benefited from the low natural gas prices. The measure, however, died in the House-Senate conference committee, after conferees decided the government couldn't afford sustaining the giveaway.

ADM'S BUMPER CROP

A financier for whom Dole has delivered more tangible results is Dwayne Andreas, the CEO of agriculture giant Archer Daniels Midland.

Andreas has been a financial godfather to politicians of all ideological stripes for the last 25 years. He gave thousands of dollars to Hubert Humphrey, managed the late vice president's blind trust, and gave at least \$70,000 to the children of Humphrey's top congressional aide, David Gartner. In 1974, Andreas made more than \$100,000 in secret contributions to both Humphrey and Nixon, including \$25,000 that went to the White House plumbers unit. The one constant in Andreas's life is that he gives money—lots of money—to whoever might be in a position to help his company, no matter what their politics. There's no mystery to this: As is widely known in Washington, ADM's success depends upon massive governmental favoritism toward its various enterprises, all of which are agriculture-based.

If few political financiers are better known than Andreas, few politicians have more conspicuously courted his favor than Dole. Since the two joined forces two decades ago, Andreas's money has found its way into virtually every pocket of Dole's

money coat. In the last few years alone, ADM and Andreas family members have given Dole's foundation at least \$185,000, and at least \$53,000 more to his various campaigns.

In 1982, Dole and his wife bought a luxury condominium in Bal Harbour, Florida from a company controlled by Andreas for the bargain price of \$150,000. The condo allows Dole to live the lifestyle of the rich and famous: Fellow owners include millionaire attorney Robert Strauss, broadcaster David Brinkley, and lobbyist Howard Baker, himself a former GOP Senate leader. "There appears to be little doubt that the Doles received preferential treatment from Andreas," the *New York Times* concluded after investigating the transaction in 1987. The paper found that a condominium of the same size but in a less desirable location of the building sold for \$40,000 more than the Doles paid, just three months prior to the Doles' purchase. The senator has always denied any impropriety.

Then there are the campaign flights Dole gets on ADM's corporate jet. In the last six years, Dole has made 23 campaign flights aboard ADM's corporate jet, according to FEC records. The flights amount to contributions by ADM to Dole that would be illegal were they to be made in the form of cash. Exploiting a loophole in campaign finance law, Campaign America reimburses ADM for most of the flights at the rate it would cost the senator to fly first-class on a commercial airliner. That's a significant discount: Charter jets cost as much as \$20,000 per trip for fuel maintenance, staff, and other costs, and rarely less than \$5,000. At a conservative estimation based on the number of trips at a rate of \$5,000 per trip (surely a low estimate) minus those reimbursements, ADM has made \$90,000 in corporate contributions to Dole in this manner.

Andreas says he's not out to buy influence. ADM, he once told *Fortune* magazine, is the "most impotent political animal in the world." Dole, for his part, has always claimed Andreas is just a kindred spirit with a lot of money. As the representative of a farm state, Dole says, he just happens to favor programs that also benefit ADM. But under scrutiny, this claim too falls apart. On the issues

The Dole-sponsored ethanol subsidies go to a contributor that controls two-thirds of the market.

Dole has championed, the interests of ADM and Kansas voters have often diverged.

Consider Dole's long-standing and controversial advocacy of ethanol, a corn-based product ADM has touted as a cleaner-burning alternative to gasoline. In 1990, Dole held a trade bill hostage until the House would agree to extend a tax

credit for domestic production of ethanol and to place duties on imported ethanol. In 1991, Dole added an amendment to a highway bill that made it harder for refiners to supply petroleum distributors with methanol—the chief competitor of ethanol. In 1992, Dole jawboned the Bush administration into issuing new regulations, boosting the role of ethanol in the government's clean air program. In 1993, Dole pushed a Senate resolution encouraging President Clinton to endorse the Bush regulations. (Uncharacteristically, it lost.) In fact, in virtually every session of Congress for the last decade, Dole has introduced legislation beneficial to ADM.

Though ethanol's environmental value remains unproven, Dole has always claimed the subsidies benefit his constituents, by increasing demand for Kansas-grown corn—an explanation the media and the public have apparently bought. But despite years of massive subsidization, no evidence exists that the ethanol program has raised corn prices significantly. Some economists say that even if ethanol production were to triple—and it would only grow 10 percent under the most generous government-subsidy scenario—the effect on corn prices would be minimal.

So who benefits from the subsidy? ADM, which controls two-thirds of the ethanol market. Last year, ADM produced some 900 million gallons of ethanol, reaping the lion's share of \$500 million in government subsidies. Ethanol accounts for about a fourth of the company's earnings. Without the subsidy, the ethanol market would all but collapse. (Another fourth of ADM's earnings comes from high fructose corn syrup, a sweetener for which there also would be no market but for federal tariffs on imported sugar.)

Other large Dole financiers have benefited from Dole's work, too. Public records show that since 1987 Dole's

biggest funders, the Gallo family, have given at least \$193,000 in direct campaign contributions, not including the money donated to Dole's PAC and foundations. As the *Los Angeles Times* reported, Dole in 1992 used congressional oversight of the Treasury Department to fight off stricter labeling requirements on the imitation champagne Gallo manufactures. Dole has also opposed tax increases on alcoholic beverages, and in 1986 pushed through an amendment to the tax reform act which allowed the billionaire Gallo family and other super wealthy families to evade certain inheritance taxes on generation-skipping trusts.

Cincinnati billionaire Carl Linder, members of his family, and executives from the American Financial Corporation gave Dole about \$34,000 for his 1986 Senate campaign, about \$47,000 in 1987 for his presidential campaign, and at least \$28,000 since then. Dole has also used the AFC corporate jet at least five times since 1989, FEC records show. Dole appears to have worked behind the scenes to preserve a dividend-received deduction that benefits AFC, and, as first reported in the *Cincinnati Enquirer*, Dole pressured the Clinton administration to protect Chiquita—an AFC subsidiary—in its trade disputes with Europe and Latin America.

THE TEFLON SENATOR?

Such relationships ought to raise at least a few eyebrows. But will they make a difference? Maybe not for Dole, who's already demonstrated a unique ability to avoid the taint of scandals to which he was connected. Putting aside the Federal Election Commission charges stemming from the 1988 presidential campaign—recall that the FEC required Dole's campaign to admit it broke the law—nobody seems to care about the relationship between Dole and David Owen, a longtime Dole fundraiser who served prison time for tax fraud and was accused (though never convicted) of illegal fundraising practices by the Kansas Public Disclosure Commission and state prosecutors.

Owen's ties to Dole go back at least to 1974, when Owen stepped down as Kansas lieutenant governor in order to rescue Dole's faltering campaign for a second Senate term. Owen was Dole's primary fundraiser for most of the 1980s, serving as a senior executive of Campaign America in 1986 and, for a time, national finance cochairman of Dole's 1988 presidential campaign. He once estimated that he had raised more than \$20 million for

Republicans during his fundraising career, at least half of it for Dole.

Questionable dealings characterized their relationship. One early one that attracted FEC scrutiny involved a \$50,000 loan Owen had engineered while he was president of a Kansas bank—a loan to Elizabeth Dole that was promptly funneled into Dole's 1980 presidential campaign. According to FEC staff investigators, Owen had structured the deal to appear that Mrs. Dole was lending her husband's campaign the money, when in fact it came from the bank. Although it would have been legal for the bank to lend the campaign the money directly, the campaign may not have had sufficient assets to justify it, raising questions of whether Owen was giving his ally Dole a sweetheart deal. Mrs. Dole's trust fund, meanwhile, was not liquid, so the only way to get the money from the bank to Dole was for Mrs. Dole to put up her trust as collateral, take out her own loan, and then give it to the campaign.

Correspondence between Owen and campaign manager Jo-Anne Coe, on file with the FEC, confirms the nature of the relationship. "Dear Jo-Anne: Please find enclosed note for Elizabeth Dole in the amount of \$50,000, per your request," Owen wrote on a piece of bank stationery. He then asked the campaign manager for "instructions as to where you would like the money sent. If you prefer, I can wire transfer to your bank in Washington..." Coe promptly instructed Owen to wire the funds directly into the campaign's bank account, as the funds "are needed at the earliest possible time."

FEC staff investigators concluded that the transaction violated federal campaign finance laws, which require campaigns to disclose the true source of all loans and contributions. Yet the FEC ultimately dropped the case after deadlocking on a staff recommendation to pursue the case against Dole. The politically divided agency frequently deadlocks along partisan lines when a powerful politician from either party is involved.

Another episode involved arrangements Owen made after he became adviser to Mrs. Dole's \$1 million trust in 1983—investments he engineered that relied directly or indirectly on government contracts, all secured with the assistance of Dole's Senate staff.

One of the most profitable of these deals was the purchase of an office building in February,

1986. The trust bought the building for \$1.39 million, netting Owen a \$139,000 commission, and then sold the building a year later, netting the Doles a \$100,000 profit. So far, so good. But the new buyer was no stranger. Instead, the Doles had sold the building to a company called EDP Enterprises, which was run by John Palmer, a former Dole aide. And at the same time EDP was buying the building, EDP had also won a \$25 million minority set-aside contract (Palmer is black) from the Small Business Administration. EDP had pursued the contract unsuccessfully for at least a year; only after senior Dole aides intervened with the Small Business Administration did EDP get it. It turns out that Owen was a consultant to EDP, and that Owen owned a company that was one of EDP's major suppliers.

As word of this deal leaked into the press, Dole flatly denied any intervention with the Small Business Administration on behalf of Palmer. But the House Small Business Committee investigated and concluded that Dole personally had called the SBA's top official on Palmer's behalf. The committee also investigated whether EDP was a front company for Owen, and concluded that it likely was. Despite these findings, the Senate Ethics Committee never took action against Dole.

Dole eventually cut Owen loose when reports of Owen's involvement with the trust threatened Dole's 1988 presidential bid. But Owen's state officials later prosecuted Owen on tax fraud and political fundraising charges unrelated to the Dole campaigns or the EDP episode. In 1993, a Kansas judge sentenced Owen to a year and a day in prison. Owen served six months, and was released in October 1994.

"Exhaustive investigations into the case found no wrongdoing on the part of Dole," a Dole spokesperson said. "Questions about the Owen affair are frankly disingenuous." But it is instructive to compare what is known about the the Dole-Owen affair with Whitewater, a potential scandal that has attracted considerable attention in the national media during the last two years. Which episode is more recent? Which politician made

more money? Which politician took official action to help his benefactor?

Barring new revelations about Whitewater, the answers to these questions appear to be Dole, Dole, and Dole. Dole, though, had the good fortune of having his scandal disclosed just as his presidential campaign was faltering. He has faced no investigations or independent counsels, and the national press, thus far, has given him a free pass. To date, no full accounting of Dole's transgressions has appeared in the national media, despite numerous articles on his presidential candidacy.

Such is the state of contemporary reporting. Reporters pore over the record of a new figure like Newt Gingrich but leave unexamined and unremarked the two-decade history of a politician many consider the odds-on favorite to be our next president. The voters, meanwhile, have grown increasingly desensitized to charges of political corruption altogether.

In all fairness, there is some reason for disillusionment. Dole may be noteworthy for his ambition and brazenness, but his practices are not that atypical. Gary Hart and Jack Kemp had nonprofit think tanks, which like Dole's attracted money from their political contributors. Revelations about Gingrich's nonprofit foundation—which like Dole's had strong ties to his campaigns—forced the Speaker to sever his ties earlier this year. House Minority Leader Richard Gephardt maintains a political action committee that engages in many of the same practices as Dole's PAC. In the modern campaign arsenal, loosely affiliated PACs and nonprofits are essential weapons for officials with national ambitions.

Such is the reality of the privately financed campaign system, a system reformers have targeted for years. Perversely, the only campaign finance proposal to come up in Dole's Senate this year was the measure to abolish public financing in presidential campaigns, which would complete the regression of our campaign finance system to pre-Watergate days. The measure failed, but Dole's sponsorship of it is a measure of how much of an opponent of reform he really is. □

Which episode
is more recent?
Which politician
made more
money? Which
politician took
official action to
help his
benefactor?

IS VIOLENT SPEECH A RIGHT?

BY CASS R. SUNSTEIN

This spring, talk-show host G. Gordon Liddy, speaking on the radio to millions of people, explained how to shoot agents of the Bureau of Alcohol, Tobacco, and Firearms: "Head shots, head shots. . . . Kill the sons of bitches." Later he said, "Shoot twice to the belly and if that does not work, shoot to the groin area."

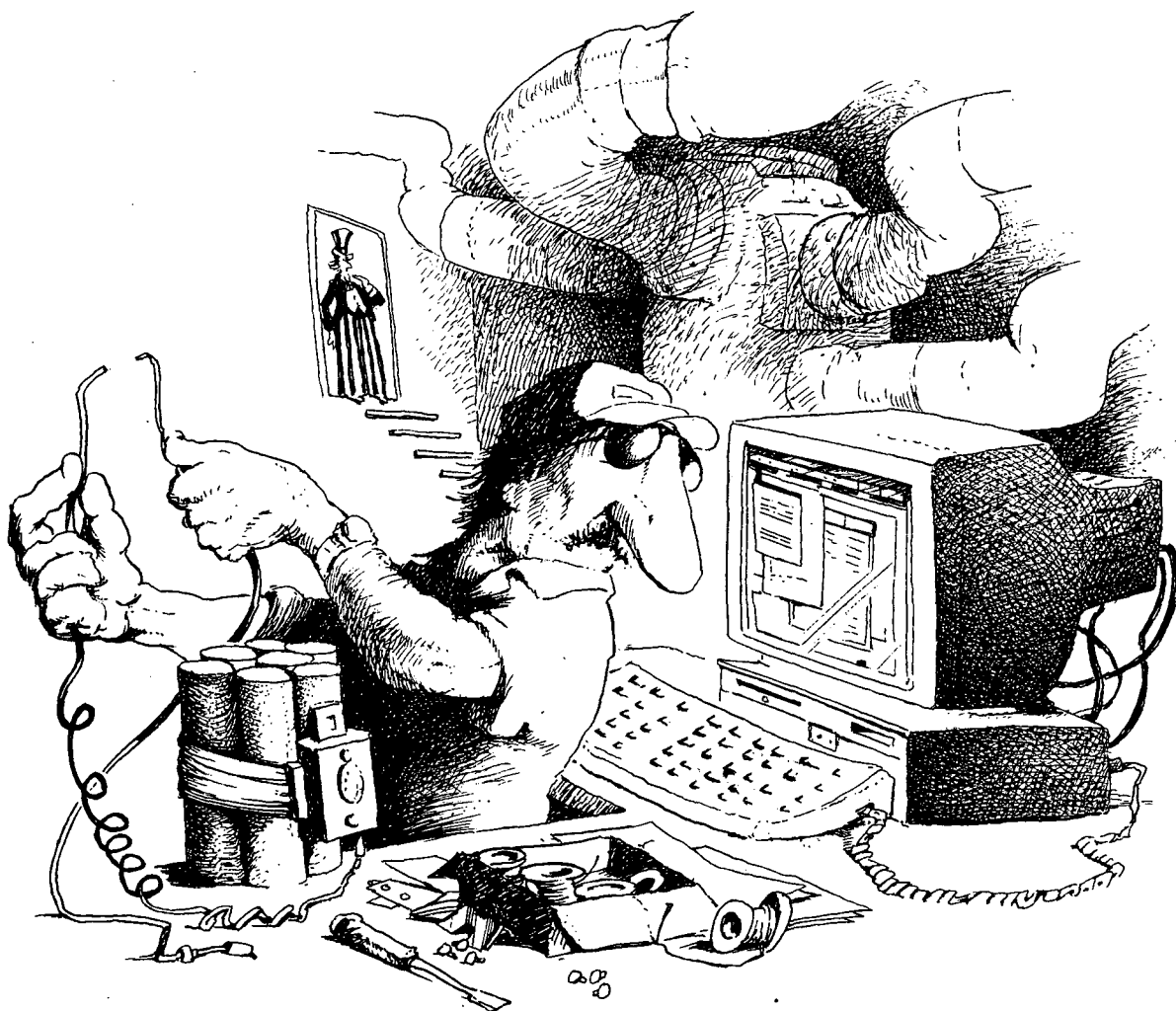
On March 23 the full text of the *Terrorist's Handbook* was posted on the Internet, including instructions on how to make a bomb (the same bomb, as it happens, that was used in Oklahoma City). By the time of the Oklahoma bombing on April 19, three more people had posted bomb-making instructions, which could also be found on the Internet in the *Anarchist's Cookbook*. On the National Rifle Association's Internet "Bullet 'N' Board," someone calling himself "Warmaster" explained how to make bombs using baby-food jars. Warmaster wrote, "These simple, powerful bombs are not very well known, even though all the materials can be easily obtained by anyone (including minors)." After the Oklahoma bombing, an anonymous notice was posted to dozens of Usenet news groups, listing all the materials in the Oklahoma City bomb, explaining why the bomb allegedly did not fully explode, and exploring how to improve future bombs.

Fifty hate groups are reported to be communicating on the Internet, sometimes about conspiracies and (by now this will come as no surprise) formulas for making bombs. On shortwave radio, people talk about bizarre United Nations plots and urge that "the American people ought to go there bodily, rip down the United Nations building and kick those bastards right off our soil." A few months ago Rush

Limbaugh, who does not advocate violence, said to his audience, "The second violent American revolution is just about, I got my fingers about a fourth of an inch apart, is just about that far away. Because these people are sick and tired of a bunch of bureaucrats in Washington driving into town and telling them what they can and can't do."

In the wake of the tragedy in Oklahoma City, a national debate has erupted about speech counseling violence or inciting hatred of public officials. Of course, we do not know whether such speech had any causal role in the Oklahoma City bombing. But new technologies have put the problem of

For subscriptions and bulk reprints call 1-800-872-0162.



incendiary speech into sharp relief. It is likely, perhaps inevitable, that hateful and violent messages carried over the airwaves and the Internet will someday, somewhere, be responsible for acts of violence. This is simply a statement of probability; it is not an excuse for violence. Is that probability grounds for restricting such speech? Would restrictions on speech advocating violence or showing how to engage in violent acts be acceptable under the First Amendment? Aside from legal restrictions, what measures are available to the nation's leaders and private citizens to discourage incendiary hate and promote the interests of mutual respect and civility?

THE LIMITS OF PROTECTED SPEECH

Recent events should not be a pretext for allowing the government to control political dissent, including extremist speech and legitimate hyper-

bole. But narrow restrictions on speech that expressly advocates illegal, murderous violence in messages to mass audiences probably should not be taken to offend the First Amendment.

For most of American history, the courts held that no one has a right to advocate violations of the law. They ruled that advocacy of crime is wholly outside of the First Amendment—akin to a criminal attempt and punishable as such. Indeed, many of the judges revered as the strongest champions of free speech believed that express advocacy of crime was punishable. Judge Learned Hand, in his great 1917 opinion in *Masses v. United States*, established himself as a true hero of free speech by saying that even dangerous dissident speech was generally protected against government regulation. But Hand himself conceded that government could regulate any speaker who would “counsel or advise a man” to commit an unlawful act.

In the same period the Supreme Court concluded that government could punish all speech, including advocacy of illegality, that had a "tendency" to encourage illegality. Justices Holmes and Brandeis, the dissenters from this pro-censorship conclusion, took a different approach, saying that speech could be subjected to regulation only if it was likely to produce imminent harm; thus they originated the famous "clear and present danger" test. But even Holmes and Brandeis suggested that the government could punish speakers who had the explicit intention of encouraging crime.

For many years thereafter, the Supreme Court tried to distinguish between speech that was meant as a contribution to democratic deliberation and speech that was designed to encourage illegality. The former was protected; the latter was not. In 1951 the Court concluded in *Dennis v. United States* that a danger need not be so "clear and present"

if the ultimate harm was very grave.

The great break came in the Court's 1969 decision in *Brandenburg v. Ohio*. There the Court said the government could not take action against a member of the Ku Klux Klan, who said, among other things, "We're not a revengent organization, but if our President, our Congress, our Supreme Court, continues to suppress the white, Caucasian

race, it's possible that there might have to be some revenge taken." The speaker did not explicitly advocate illegal acts or illegal violence. But in its decision, the Court announced a broad principle, ruling that the right to free speech does "not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action."

Offering extraordinarily broad protection to political dissent, the Court required the government to meet three different criteria to regulate speech. First, the speaker must promote not just any lawless action but "imminent" lawless action. Second, the imminent lawless action must be "likely" to occur.

Third, the speaker must intend to produce imminent lawless action ("directed to inciting or producing imminent lawless action"). The *Brandenburg* test borrows something from Hand and something from Holmes and produces a standard even more protective of speech than either of theirs.

OLD STANDARDS, NEW TECHNOLOGY

Applied straightforwardly, the *Brandenburg* test seems to protect most speech that can be heard on the airwaves or found on the Internet, and properly so. Remarks like those quoted from Rush Limbaugh unquestionably qualify for protection; such remarks are not likely to incite imminent lawless action, and in any case they are not "directed to" producing such action. They should also qualify as legitimate hyperbole, a category recognized in a 1969 decision allowing a war protester to say, "If they ever make me carry a rifle the first man I want to get in my sights is LBJ." Even Liddy's irresponsible statements might receive protection insofar as they could be viewed as unlikely to produce imminent illegality. A high degree of protection and breathing space makes a great deal of sense whenever the speech at issue is political protest, which lies at the core of the First Amendment.

But there is some ambiguity in the *Brandenburg* test, especially in the context of modern technologies. Suppose that an incendiary speech, expressly advocating illegal violence, is not likely to produce lawlessness in any particular listener or viewer. But of the millions of listeners, one or two, or ten, may well be provoked to act, and perhaps to imminent, illegal violence. Might government ban advocacy of criminal violence in mass communications when it is reasonable to think that one person, or a few, will take action? *Brandenburg* made a great deal of sense for the somewhat vague speech in question, which was made in a setting where relatively few people were in earshot. But the case offers unclear guidance on the express advocacy of criminal violence via the airwaves or the Internet.

When messages advocating murderous violence flow to large numbers of people, the calculus changes: Government probably should have the authority to stop speakers from expressly advocating the illegal use of force to kill people. There is little democratic value in protecting counsels of murder, and the ordinary *Brandenburg* requirements might be loosened where the risks are so great. Congress has made it a crime to threaten to

The First Amendment does not necessarily protect advocacy of illegal violence to kill people.

assassinate the president, and the Court has cast no doubt on that restriction of speech. It would be a short step, not threatening legitimate public dissent, for the Federal Communications Commission to impose civil sanctions on those who expressly advocate illegal, violent acts aimed at killing people. Courts might well conclude that the government may use its power over the airwaves to ensure that this sort of advocacy does not occur.

Of course, there are serious problems in drawing the line between counsels of violence that should be subject to regulation and those that should not. I suggest that restrictions be limited to express advocacy of unlawful killing because it is the clearest case.

Authorizing the restriction of any speech, even counsels of violent crime, has risks. Government often overreacts to short-term events, and the Oklahoma City tragedy should not be the occasion for an attack on extremist political dissent. Vigorous, even hateful criticism of government is very much at the heart of the right to free speech. Indeed, advocacy of law violation can be an appropriate part of democratic debate. As the example of Martin Luther King, Jr., testifies, there is an honorable tradition of civil disobedience. We should sharply distinguish, however, King's form of nonviolent civil disobedience from counsels or acts of murder. The government should avoid regulating political opinions, including the advocacy of illegal acts. That principle need not, however, be interpreted to bar the government from restricting advocacy of unlawful killing on the mass media.

THE WIDER DEFENSE OF CIVILITY

What else might be done? First, nothing that I have said suggests that government lacks the power to limit speech containing instructions on how to build weapons of mass destruction. The *Brandenburg* test was designed to protect unpopular points of view from government controls; it does not protect the publication of bomb manuals. Instructions for building bombs are not a point of view, and if government wants to stop the mass dissemination of this material, it should be allowed to do so. A lower court so ruled in a 1979 case involving an article in the *Progressive* that described how to make a hydrogen bomb, and the court's argument is even stronger as applied to the speech on the Internet, where so many people can be reached so

easily.

Second, the nation's leaders can do a good deal short of regulation. The president and other public officials should exercise their own rights of free speech to challenge hateful, incendiary speech. Although public officials could abuse these rights so as to chill legitimate protest, President Clinton's statements about hatred on the radio and the Internet were entirely on the mark. Public disapproval may ultimately have a salutary effect (as it recently did in the case of violent television shows), even without the force of law.

Third, private institutions, such as broadcasting stations, should think carefully about their own civic responsibilities. An owner of a station or a programming manager is under no constitutional obligation to air speakers who encourage illegal violence. Stations that deny airtime for such views do no harm to the First Amendment but on the contrary exercise their own rights, and in just the right way. In recent months, public and private concern about hate-mongering has encouraged some stations to cancel G. Gordon Liddy's show; this is not a threat to free speech but an exercise of civic duties. Similarly, private on-line networks, such as Prodigy and America Online, have not only a right but a moral obligation to discourage speech that expressly counsels illegal killing.

The advocacy of murder is an extreme version of a far more widespread social practice: treating political opponents, or large groups of people, as dehumanized objects of hatred and fear. Too often people who disagree are portrayed as if their political disagreement is all that they are—as if they are not real human beings who have hopes, fears, and life histories of their own. Too often the individuality of opponents is hidden behind political abstractions—"the government," "the bureaucrats," "the liberals," "the radical right," "the counterculture." The seeds of violence lie in these abstractions.

The communications media sometimes help promote violence by turning people into abstractions, but they can also help to reduce violence by telling the stories of individual people. By focusing the nation on the individuals who happened to be in a federal office building one day in April, the Oklahoma City tragedy may have helped break through the abstractions that enable government-hating extremists to commit unspeakable acts. □

SO YOU WANT TO BE COLOR-BLIND

ALTERNATIVE PRINCIPLES FOR AFFIRMATIVE ACTION

BY PETER SCHRAG

By now, there's not much doubt that when Americans are asked yes-or-no questions about the legitimacy of race preferences in public-sector hiring, contracting, and education, the answer is likely to be a flat no. Roughly 60 percent of Californian voters say that they support the proposed California Civil Rights Initiative (CCRI), which would prohibit all consideration of race or gender in public employment, education, and contracting; only 35 percent oppose it. Those findings are consistent with a

decade of other survey data showing overwhelming opposition, among both men and women and among members of both political parties, to race and gender preferences. They suggest relatively few Americans will be troubled, and many will be delighted, when Newt Gingrich and other Republicans try to write prohibitions against contract set-asides and other minority preferences into the federal budget this summer. By next year, when CCRI is expected to be on the California ballot, the undoing of race preferences could become a political and social avalanche. The people who will be living under that avalanche are called liberals.

Republicans are relishing the difficulties that the rollback of preferences will cause Democrats forced to choose between their civil rights con-



For bulk reprints and subscriptions call 1-800-872-0162.

stituencies and what's left of their blue-collar support. Which, of course, is why even such Republicans as Senate Majority Leader Bob Dole and California Governor Pete Wilson, not long ago regarded as among the steadfast supporters of affirmative action, flipped on the issue—and why they'd just as soon keep it a question of either-or: color conscious or color-blind. It's hard to think of a better political wedge to use on the Democrats next year. It could kill Clinton in California, a state indispensable to his re-election. It could make today's racial tensions look benign next to what follows.

But this ought not to be that kind of question; the issue is too complex, too nuanced, too circumstantial, too slippery in definition, too divisive. To debate it in such terms is almost certain to embitter and distort whatever outcome the nation chooses—and to assure a Democratic disaster.

BETWEEN BLACK AND WHITE

Affirmative action has produced some clearly unreasonable results. In San Francisco, for example, substantial numbers of high-achieving Chinese students are denied entrance to Lowell High School, a selective public institution, to make room for blacks and Hispanics (and even some whites) with lower scores and weaker records. At the University of California Medical School at Irvine, the blacks and Hispanics who are accepted have lower average medical school admission test scores than the Vietnamese applicants who are rejected. It would be hard to defend either of these policies against the charge that it is both unfair and academically debilitating.

But does the effort to eliminate such distortions also justify an absolute prohibition against efforts of the police chief of Los Angeles (or Detroit or Chicago) to seek out and promote qualified minority officers to diversify their departments? Why should a school system, seeking more effective models, not give some margin of preference to teacher candidates from underrepresented minority groups? If such private firms as the Bank of America or Nynex regard it as good business practice to seek out minorities to work in ethnically diverse markets and communities, why shouldn't the state Department of Motor Vehicles or the city zoning board do so for the same reasons?

There's no end of questions. Are we prepared to accept the larger effects of an absolute prohibition on racial preferences in all public-sector activities?

Would we create an even larger playpen for lawyers and consultants to file reverse discrimination suits on the grounds that some practices were not truly color-blind? How, absent a court order, could any employer voluntarily mitigate the effects of past discrimination? Would it be better for the federal government (a) to encourage its contractors to take reasonable steps to diversify their workforces; (b) to adopt a fiercely neutral position; or (c) to prohibit its contractors from in any way noticing gender and ethnicity?

So far, however, instead of asking such questions, the parties in this debate—liberals and Democrats in thrall to their minority constituencies, Republicans exploiting the liberals' panic—are usually talking past the central issue: To what extent should merit be compromised for the sake of inclusion? The defenders of race-based affirmative action insist that no such preferences are ever given to unqualified people—that the choice is only made among the qualified—and that if that principle is violated, somebody or something, probably the courts, will crack down in righteous remedy. They are also quick to remind critics of race preferences—correctly, for the most part—that such practices were and still are used to benefit WASP legacies in the Ivy League and other selective colleges long before they were ever applied in favor of blacks and Hispanics. (What is not said is that the losers in both cases tend to be the same kinds of people: Jews and Asians.)

But what's the meaning of qualified? Some preferences clearly favor the less qualified. Under current law, contractors may win awards despite relatively high bids simply because they are black or Hispanic. In the ordinary sense, they are not as "qualified" as—and cost the taxpayers more than—lower (white) bidders passed over. But in trying to predict who will make a good cop or a good truck driver for the road crew, is there really any significant difference between the top three scores on the average civil service exam or perhaps even among the top ten? To what extent, indeed, are some affirmative action programs merely attempts to avert attacks on conventional hiring practices or university admission policies that are themselves

Are we prepared to accept the larger effects of an absolute ban on racial preferences?

based on shaky criteria and which, in any case, have never been fully disclosed, much less debated? The critics of affirmative action may have wildly exaggerated ideas of how much merit criteria are stretched in the cause of diversity. The defenders of race preferences may exaggerate how often relatives of union members get breaks in applying to apprenticeship programs, or how many alumni children get preferences in admission to Harvard or Princeton, but so far those institutions are not going out of their way to clarify what they do.

SHAKY FROM THE START

The foundations were always shaky. From the earliest presidential orders of the 1960s—Kennedy's, Johnson's, Nixon's—calling on federal agencies and contractors to use “affirmative action” to eliminate discriminatory racial practices, to the introduction of goals and timetables in industry training and hiring, to the Reagan-era attempt, largely unsuccessful, to dismantle affirmative action, the country was always tentative and uncomfortable about formal racial distinctions, even when invoked for the most noble purposes. This, after all, was what the whole civil rights fight had been about, what the movement had tried to teach the country, and what for the most part—despite continuing subtle (and sometimes not-so-subtle) racism—it succeeded in doing.

What made race preferences tolerable—and what the Supreme Court in crucial cases accepted—was the assumption that they would be marginal and temporary. When candidates for a job were equally qualified, the obligation to remedy the effects of past discrimination justified preferences for people from races—later expanded to gender and handicap—that had been victims of that discrimination. In 1965, the year of the great triumphs of the civil rights movement, it made sense to argue, as Lyndon Johnson did, that “you do not take a person who has been hobbled by chains, liberate him, bring him up to the starting line” and then tell him “you are free to compete with all the others.” But the consensus for preferences was always tentative. In *Bakke*, where the Court sanctioned the use of race as one “plus factor” among many extra-academic characteristics (musical or artistic or athletic talent, geographic background, unusual experiences, public service) that might be considered in university admissions—Justice Powell called it “the Harvard

plan”—Justice Blackmun spoke of the need for a period of “transitional inequality.” Within “a decade at most,” he hoped, the need would disappear. “Then persons will be regarded as persons and discrimination of the type we address today will be an ugly feature of history that is instructive but that is behind us.”

But that was 1978, and in the meantime almost precisely the opposite has happened. Race preferences, justified as a choice among equally qualified candidates, have been institutionalized and have grown to the point where the University of Texas Law School argues that if it did not use two sets of criteria in admissions there would be virtually no blacks or Hispanics at all, and where the average SAT scores for preferred minority groups at universities like Berkeley are now between 200 and 250 points lower than they are for whites and Asians. (It's between 150 and 200 points elsewhere in the University of California system.) Yet even that was not sufficient for the California legislature, then controlled by Democrats, which took note of the unsurprising fact that UC's minority graduation rates were significantly lower than those of whites and Asians and in 1991 quietly approved an “education equity act” to put fiscal and administrative pressure on the state's universities not just to admit students in the ethnic proportions in which they were graduating from the state's high schools, but to graduate them from college in the same proportions. Only Pete Wilson's veto kept the bill from becoming law. (It was that bill, incidentally, that prompted Glynn Custred and Thomas Wood, the two conservative academics who wrote CCRI, to begin work on the initiative.)

Elsewhere as well, inches have become yards. Outreach in contracting has turned to tax breaks and set asides for women and minority-owned businesses, even when the owners are themselves multimillionaires, and (increasingly) into a scandalous use of dummy ownerships by white- or male-controlled enterprises. Pressure on businesses from equal opportunity bureaucrats wielding the club of rigid disparate impact standards has pushed “goals and timetables” toward de facto quotas. (In one case, the Equal Employment Opportunity Commission sued a Chicago company that employed only blacks and Hispanics, charging that it did not have enough blacks.) The guarantee of voting rights has led to

racially gerrymandered districts and Republican control of most Southern congressional delegations. In the process, what had been an informal understanding to pursue a high moral objective through a combination of stringent rules against discrimination and marginal race preferences has evolved into a system of quasi-entitlements and rigid legal impositions governed by a complex structure of quietly enacted law, appellate court decisions, civil service rules, university and graduate school admissions practices, set-asides, hiring goals, and EEOC formulas managed by armies of counselors, contract compliance auditors, diversity trainers, affirmative action officers, experts in disparate impact studies, and layer upon layer of lawyers—a huge panoply of law, regulation, and administrative practice affecting virtually every sector of the nation's life.

RISE UP ANGRY

It's hardly surprising that there's growing anger about this unsightly landscape of entitlements and demands. Working-class Americans and a great many others face tightening economic prospects. Talk radio and other new media now legitimize attitudes that were regarded as offensive, if not unspeakable, not so long ago.

Yet economic fears and the angry voices on the radio are hardly the whole explanation. We are now thirty years beyond the searing consciousness of what things were like before the Civil Rights Act and the Voting Rights Act, even among the majority of black people. There is much dispute about who has gained from race preferences, but there's little doubt that where the original argument for affirmative action rested in passionately assimilationist demands for equal justice, its consequences, especially on university campuses, have been increasingly manifest in segregated programs with their own criteria, shape-up courses for blacks and Latinos, "theme" housing, student-administered speech codes enforcing political correctness with the threat of suspension, even separate graduation exercises—plus the long train of racial tension that comes with them. The moral case that had started with "We Shall Overcome" and Martin Luther King seems to be ending with gangsta rap, Ice-T, melanism, Louis Farrakhan, and Khalid Muhammad. It is hard to defend affirmative action for an in-your-face separatism that rejects the western values that underlie and represent the only jus-

tification for the whole effort.

But if there are moral problems, there are practical ones as well. The proliferating list of protected groups—blacks, Latinos, women (in some circumstances), Asians (in others), the handicapped (plus veterans and legacies)—makes the future of group preferences increasingly dubious. It was almost inevitable that CCRI, which sparked our current affirmative action fight, would arise in the nation's most heterogeneous state. California's multicultural population makes it increasingly difficult to draw legitimate distinctions between who's to be favored and who is not, or even to make reasonable decisions, as the Census Bureau is now pointing out, about how individuals should be counted. And as intermarriage proliferates among all those groups, who's to say how their offspring should be counted? Should the son of an Argentinian immigrant, now a corporate executive in San Diego (or a Cuban in Miami), get preference as a Latino? How do you classify a student with a hyphenated name, half Hispanic and half Jewish? Why do we give preference to the child of the black doctor and none to the child of the Appalachian coal miner?

Historian Hugh Davis Graham of Vanderbilt University points out that the most overlooked law of the civil rights era, the Immigration Reform Act of 1965, which ended the system of national-origins quotas in U.S. immigration policy, had enormous consequences that we still don't fully comprehend. Although its sponsors claimed that it would produce little significant increase in immigration, it brought to the country more than 20 million legal immigrants during the thirty years after its enactment, approximately 75 percent of whom "qualified upon arrival for minority-group preferences over Americans whose citizenship reached back many generations." Surely that was not justified by any effort to remedy past injustices. Surely that was not part of any tacit bargain to which the country ever agreed.

STRAINS OF AMBIVALENCE

But does even that certify the wisdom of a decision that would, virtually overnight, impose the across-the-board prohibitions on race preferences that the opponents of affirmative action are now demanding? Or does it make more sense—political, social, moral—to return to the limited (*Bakke*) version of affirmative action, messy as it often was, to which the country seemed to give its consent a

generation ago—and which it may still be willing to accept? To return to polls for a moment: If the question is changed from an either-or choice about explicit race preferences to more general matters about affirmative action, the answers change as well. In a *USA Today*/CNN poll this spring, 73 percent said they favor companies “making special efforts to find qualified minorities and women.” Similar answers are given to questions about special training programs for minorities and women. The vast majority of respondents, white and black, don’t believe that the country has been purged of racial discrimination. On a general question about affirmative action programs on the *USA Today* poll, 31 percent favored expansion, 37 percent favored a decrease, and 26 percent thought they should be kept about the same.

It may be impossible to fully articulate that ambivalence, much less write it into policy. But with the stakes as high as they are on this issue, it surely deserves the effort. Considerations in the appointment of scholars for a research university may not apply to the hiring of heavy-equipment operators or postal clerks. What applies to contracting with small businesses, regardless of the race and gender of their owners, may not apply to large corporations. And what may apply to some colleges may not apply to others. Many states have created two- or three-tiered higher education systems to serve both merit and inclusion—a highly selective university combined with readily accessible junior colleges and moderately selective four-year state colleges. Why should that principle be compromised by tempering admission standards for the selective institutions in order to further inclusion there as well?

Which brings the issue back to a more basic question: What is merit and to what extent are existing criteria merit-based? In the past year there has been a bitter fight in Chicago over the promotion of a handful of black cops who were ranked high on “merit” even though they scored lower on the civil service exam than some officers over whom they were promoted. In that case, either the word “merit” is fatuous or it raises serious questions about just what the exam measures. Admissions officers at colleges raise the same issue when they defend affirmative action by arguing that test scores aren’t good predictors of performance in college. But if that’s the

case, why use the test at all?

Chances are that it’s not the case. As the neo-conservatives—some of whom defected from liberalism precisely over this issue—will tell you, the whole point of such tests was to foster merit against spoils systems at city hall and good-old-boy bias in the admission office at Yale. Ethnic spoils are no more acceptable now than the earlier varieties. In any case, nobody has yet shown what would be a better predictor of academic success for minorities.

And yet that hardly vitiates the general proposition: In many of the areas affected by public-sector racial preferences, there may be better ways of making choices than those we use now. If only court-ordered make-whole remedies to proven discrimination are permissible (which is what the opponents of race preferences advocate), how many more civil rights lawsuits would be filed that are now averted by voluntary action? Would any public employer, recognizing past discrimination, have to encourage a lawsuit before the victims could be made whole? Can race sometimes even be regarded—in practice, not in law—as part of the qualifications for certain jobs? If you seek out people not just for their technical knowledge, or their test-taking skills, but for their ability to deal with—and be trusted in—a community, why shouldn’t ethnicity be a “plus factor” in the package?

The answers are hardly self-evident. None of these questions should suggest that it’s proper for the police chief in Grosse Pointe to hire only white cops. This area doesn’t lend itself well to across-the-board legal rules; it’s better to build in flexibility and room to fudge. If there is a flat ban on any consideration of race in public policy, what happens to efforts to foster integration in elementary and secondary schools? John Bunzel, a former member of the U.S. Civil Rights Commission, now a fellow at the Hoover Institution and a sharp critic of the excesses of race preferences, has declined to support measures like CCRI which, he says, are too blunt; they simplify, and “I’m a complexifier.” Shouldn’t there be room at the margins, he asks, for ethnic diversity among all the other criteria? And that, of course is what the Supreme Court’s *Bakke* decision, with all its flaws, sought to do.

SIX ALTERNATIVE PRINCIPLES

It’s not an easy task. Yet surely before the country is forced to a set of either-or choices, some

alternative principles are worth considering:

1. *The more sophisticated the enterprise or skill for which candidates are chosen, the more important merit becomes and the weaker the claims for non-meritocratic criteria.* The kind of considerations we give in selecting people for blue-collar jobs should not be the same as the ones given to selecting graduate students in nuclear physics or brain surgery. The public junior college, by mandate, definition, and tradition, is more inclusive than the Institute for Advanced Study. Thomas Sowell makes a persuasive argument that the issue is not so much who should go to college but where. The frustration and tensions—not to mention the various distortions that have been created on many campuses to accommodate marginal students—result from the effort to bring people into academic situations for which they are not qualified. As a result, even those who are qualified are suspect and discredited.

2. *In public as well as private enterprises, diversity may well be a legitimate business consideration.* Where the choice is between candidates or contractors with similar bids or equal qualifications in skill, doesn't it make sense to consider first those who come from underrepresented groups and who will for that reason be more effective or make the enterprise more legitimate with clients and the community? In such choices, the lines of common sense, if they can be maintained, are better than the lines drawn by law.

3. *In college admission, economic disadvantage is a more legitimate extra factor for a borderline candidate than membership in a preferred racial group.* Why not shift the emphasis in affirmative action from minorities to children from families where no one has ever gone to college? Such policies may well result in smaller proportions of blacks or Hispanics at selective universities, at least in the short run, but it may have a far greater social impact. And unlike race preferences, economic disadvantage will not become a permanent entitlement. As such, it's far more consistent with the nation's historic principles. And to the extent that race preferences are forgotten, so will invidious assumptions about how minority students were accepted. What will become clear is the inadequate secondary school preparation, or worse, that causes the underrepresentation in the first place.

4. *All race preferences in public-sector activities—in contracting, hiring, and education—should be made fully public and subject to*

time limits and periodic public review by an objective, nonpartisan process. We have already managed to do away with one of the most reprehensible practices: race-norming, the system of separately ranking candidates within their own ethnic groups on Labor Department job tests and hiring from the top of each list. The expectation ought to be that we will gradually do away with a great many more in coming years. An obvious way to begin is to make affirmative action goals and the administrative definitions of disparate impact more flexible.

5. *Exclude all foreign-born residents, citizens, and aliens, and perhaps even the children of immigrants, from race preferences, excepting only children of American citizens who were living abroad.* There is no history of discrimination to justify such preferences. And they generate no end of resentment, as the passage of California's Proposition 187, the measure designed to deny social services to illegal aliens, has demonstrated.

6. *Vigorously enforce anti-discrimination law, not perhaps to the point of criminalizing discrimination as Shelby Steele proposes, but far more vigorously than we do now, and systematically review all public-sector merit systems to make certain that tests and other criteria are in fact appropriate to the tasks and positions for which they're used.*

This is hardly a complete list, much less an ideal one. But it recognizes that affirmative action—even race preference—has different meanings depending on the context, and that flexibility is critical. Affirmative action bears a heavy burden against the claims of real merit; where it favors rich over poor, strong over weak, it bears an insurmountable one. Yet rigid rules are likely to take us into a thicket of legal combat and social division more bitter than anything generated by the policies we have now. If the Democrats, rather than standing frozen in the headlights of the approaching disaster, were to try to articulate a third alternative, they might well reclaim some credibility on the issue.

The sense of a national moral imperative that once sustained affirmative action is rapidly eroding. It is only a matter of time before it's all gone. In those circumstances a soft landing—no phrase could be more appropriate in this context—would surely be better than a yes-or-no choice whose answer will almost certainly be no. But unless those who regard themselves as people of good will offer a third alternative, that's the answer we'll get. □

BACKFIRE ON CAMPUS

BY JONATHAN CHAIT

In 1964 the Free Speech Movement was born on the Berkeley campus of the University of California after administrators declared the campus off-limits to most political organizing. The movement was a catalyst for the New Left, which in its early years drew much of its energy from protests against administrative infringements on student freedom.

Hardly anyone would have expected history to repeat itself. But in the late 1980s, the pattern was reenacted on campuses across the country in an altogether unexpected way. University administrators introduced a swath of new rules, including restrictions on speech and political organization, that were aimed at suppressing racism and sexism. They ended up energizing a new generation of conservatives.

The University of Michigan, where I graduated in 1994, provides a disturbing case study in the great progressive backfire of the past decade. What went wrong at Michigan should have more than local interest. The issue that so vexed liberals at Michigan is the same one that threatens the Democratic Party today: race.

The Ann Arbor campus has a diverse population and a long history of political activism. Students for a Democratic Society was born there in the early 1960s, and the school continued to be one of the centers of radical student politics through the decade. The New Left has had a continuing presence on campus in the form of a sizable minority of leftist students, conspicuously aware of the glories of their predecessors. Twice in the 1970s, massive black student protests—the Black Action Movements—succeeded in pressuring the administration into vigorous affirmative action in admissions.

By 1987 black students had declined to 5.3 percent of the total, from a high of 7.7 percent 11 years before. In January of that year, a flyer proclaiming “open season” on minorities—whom the flyer termed “porch monkeys”—was anonymously slipped under the door of a lounge where several black students were watching television. The next week, a student disk jockey on a late-night campus radio program aired racist jokes, which he followed with a laugh track.

These incidents prompted the formation of a student organization called the United Coalition Against Racism (UCAR). Ascribing the incidents to “institutional racism,” the multiracial group held protests and sit-ins demanding increased representation of black students and faculty. Although vague about the mechanics, UCAR asked for tuition waivers and open admissions for black students. The protests received wide and generally sympathetic coverage in the Detroit and national papers. Outraged

For subscriptions and bulk reprints call 1-800-872-0162.

Democrats in the state legislature held hearings on racism at the Ann Arbor campus and threatened to reduce state funds unless the administration responded.

Although UCAR claimed that racism at the University of Michigan was endemic up to the highest levels, it had little evidence of institutional bias. A racist flyer or occasional graffiti could hardly be called "institutional." In fact, the Michigan administration and faculty bent over backwards to mollify the protesters. The black freshman class was already 50 percent larger than four years before. The university agreed to provide lounges for students of color, \$35,000 for the Black Student Union, and start-up funds and campus facilities for a Baker-Mandela Center for Anti-Racist Education.

Evidence of Michigan's institutional racism finally arrived that fall in the form of comments about affirmative action by Peter Steiner, dean of the College of Literature, Science, and the Arts. Steiner, a square-jawed 65-year-old administrator with close-cropped hair and black horn-rimmed glasses, said at a meeting:

Our challenge is not to change this university into another kind of institution where minorities would naturally flock in much greater numbers. I need not remind you that there are such institutions, including Wayne State University and Howard University. Our challenge is not to emulate them but to make what is the essential quality of the University of Michigan available to more minorities.

These words, referred to thereafter by the campus left as "Dean Steiner's racist comments," galvanized UCAR for months. The Michigan Student Assembly (MSA) unanimously passed a resolution demanding that the regents "pursue legal recourse" against Steiner. Student demonstrators called for Interim President Robben Fleming to fire Steiner. Although Fleming said he found Steiner's remarks offensive, he didn't fire him. But he supported two longstanding UCAR demands: a mandatory course on racism and a policy for prosecuting racial harassment.

At the physical and cultural center of the University of Michigan sits the Diag, a grassy park ringed by the bulk of the school's classroom buildings that gets its name from the diagonal paths that crisscross it. On warm

days students meet there to bask in the sun, toss frisbees, or take in a harangue by one of an eclectic mix of indigenous campus preachers, ranging from a Christian Evangelical named Preacher Mike on the right to a green-haired aging hippie named Stoney Burke on the left.

In 1988 the Diag was home to a slew of wooden shanties painted with slogans protesting evils such as campus racism, South African apartheid, or Israel's policies toward Palestinian Arabs. Every racist incident—some real, some imagined—drew crowds of protesters bearing signs such as "Racism Will Not be Tolerated" or "We Have a Dream of a Racist-Free University." The *Michigan Daily*, which is a student-run paper that was rocked by a ferocious internal conflict between liberals and radicals, editorialized against

The issue that so vexed liberals at Michigan is the same one that threatens the Democratic Party today: race.

rampant racism and sexism in every facet of campus life—including, in one instance, in its own news department. Walls all over campus were covered with slick flyers in maize and blue, the school colors, posted by the administration urging students to report any incidents of racial harassment to the authorities.

That fall every student received a pamphlet explaining the university's new policy on discriminatory harassment, known as the code. Sanctionable conduct included behavior that "stigmatizes or victimizes" minorities or "creates an intimidating, hostile, or demeaning environment." Since these restrictions were vague, the code tried to clarify them with examples:

- You exclude someone from a study group because that person is of a different race, sex, or ethnic origin than you are.
- You tell jokes about gay men and lesbians.
- Your student organization sponsors entertainment that includes a comedian who slurs Hispanics.
- You display a confederate flag on the door of your room in the residence hall.
- You laugh at a joke about someone in your class who stutters.

When the policy was challenged in federal court by the American Civil Liberties Union, the judge asked the university's lawyer how he could distinguish speech that was merely offensive from speech that stigmatized or victimized a protected minority. "Very carefully" was the counsel's reply.

The campus left opposed the policy, though not on grounds of free speech. Most major student activist organizations condemned the policy as "inadequate." The *Daily*

pointed out in an editorial that it

"reserves all the power for the administration and only punishes students, ignoring racist harassment by staff, faculty, the regents, and administration."

UCAR argued that disciplinary power should be in the hands of students of color rather than white male administrators like Steiner.

What sort of incidents of faculty harassment did the activists have in mind? One example was a class on race relations taught by the sociologist Reynolds

Farley, one of the nation's leading demographers. During a Martin Luther King Day speech on racism at Michigan, a UCAR activist claimed that Farley had employed a variety of racial slurs, such as using the word "nigger" or calling Mexicans "lazy." A soft-spoken liberal Democrat, Farley protested that the language

attributed to him actually came from historical sources he was quoting. "Nigger" came from W.E.B. Du Bois, whom he cited in describing the history of racism. The line about Mexicans came up when Farley explained the history of anti-immigration sentiments by citing a speech by a nativist senator in the 1920s. Yet his explanations were brushed aside, and Farley became the latest racist of the month, denounced at campus rallies and in the *Daily*. The next semester he suspended his course.

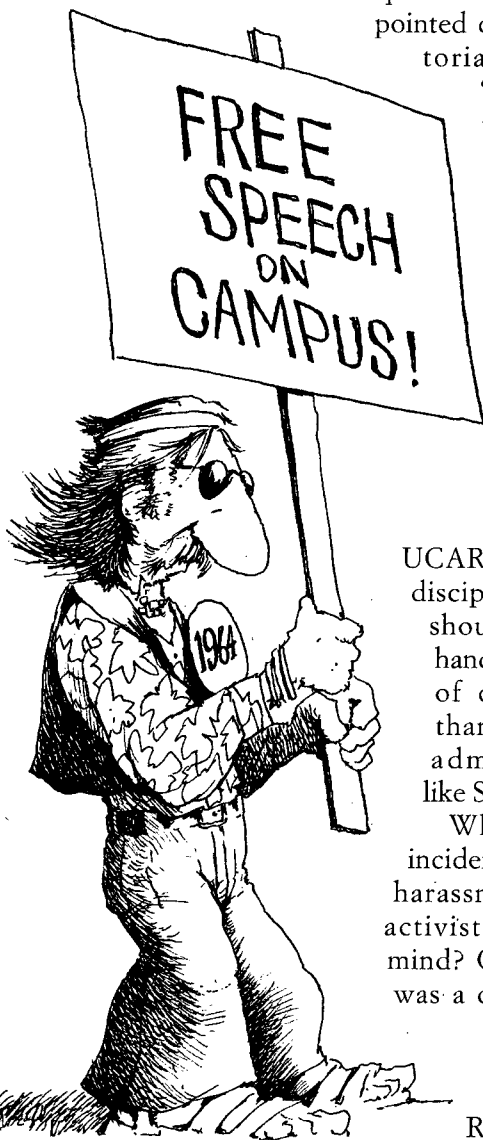
Just as the activists succeeded in narrowing the intellectual range of the dialogue on racism, they were able to dramatically expand its scale. In 1990 the College of Literature, Science, and Arts succumbed to a long-standing UCAR demand by approving a requirement that all its students take a course sensitizing them to racism.

In the face of illiberalism, how did liberals react? Initial newspaper accounts of the events at Michigan interpreted the conflict through the prism of the civil rights era. They reported the struggle as primarily about racism and generally gave favorable mention to such responses as the code—they were concrete administrative measures to stem the rising tide of bigotry. This interpretation changed only slightly after the courts upheld the ACLU's challenge. The dominant view was that if liberal administrators had erred, it was because they had pursued worthy ends through improper means.

But what happened at Michigan was not a case of liberal ends being carried out through illiberal means. The campus left was illiberal to the core. It subscribed to a variant of Marxism that substituted women and people of color for the proletariat and white males for the bourgeoisie, and it discounted the concept of individual rights as a myth created by society's privileged for their own benefit. In liberating the oppressed, the left saw no need to respect the oppressor's rights.

The initial outcry over the jeopardy to rights did not come from liberals but from conservatives. The right began to define what was happening at Michigan and other campuses as a new form of liberal tyranny—the reign of "political correctness."

Conservatives who railed against political correctness had little interest in clarifying the identity of their opponents. The truth was that the new campus censors had nothing to do with the liberal



tradition, but why would conservatives bother with that distinction? It was up to liberals to say so, but few did.

To many liberals, the new tales of "liberal tyranny" circulating in the media sounded suspiciously like the same claims about the intellectuals and the arts that conservatives had been making for years. The academic left seized upon this suspicion to make its case. In the winter of 1991, the University of Michigan hosted a conference called "The P.C. Frame-Up: Who's Behind the Attack?" The theme was that the uproar over political correctness was a right-wing plot to stigmatize any gains made by women and minorities.

There was some truth to this charge. Even campus conservatives conceded that right-wing journalists had manipulated and distorted the issues. But the participants at the conference argued not only that p.c. was a fictional product of conservative hysteria, but that any argument to the contrary was merely a stalking horse for the racist right. Self-critical introspection was in short supply.

The sociologist Todd Gitlin, a participant in the conference from the University of California at Berkeley, sought to stake out a middle ground, claiming "There is such a thing as p.c., there's not a frame-up, and yet there's a hysteria [on the right]." Most of the other participants received this argument coldly. Gitlin recalls, "There was some of this sentiment of 'we have been picked upon, we are victims, we must pull the wagons around and defend ourselves against the barbarian right'—something of a mirror image of the barbarian right's image of the p.c.niks."

A CONSERVATIVE POPULAR FRONT

With a faculty that was generally apathetic, intimidated, or enamored of the campus revolution, the opposition initially came from the student body. The *Michigan Review*, a conservative monthly founded in 1982 with money from right-leaning foundations, attracted prospective journalists who could not bring themselves to write for the *Daily*. The *Review* in the late '80s and early '90s alternated between thoughtful arguments opposing the new censorship and hard right, in-your-face, Rush Limbaugh-style mockery that sometimes was, in fact, racist and sexist. But when campus leftists criticized the *Review* for its dalliances with bigotry, conservatives shrugged. To be called racist now simply put the *Review* in the same category as Reynolds Farley or

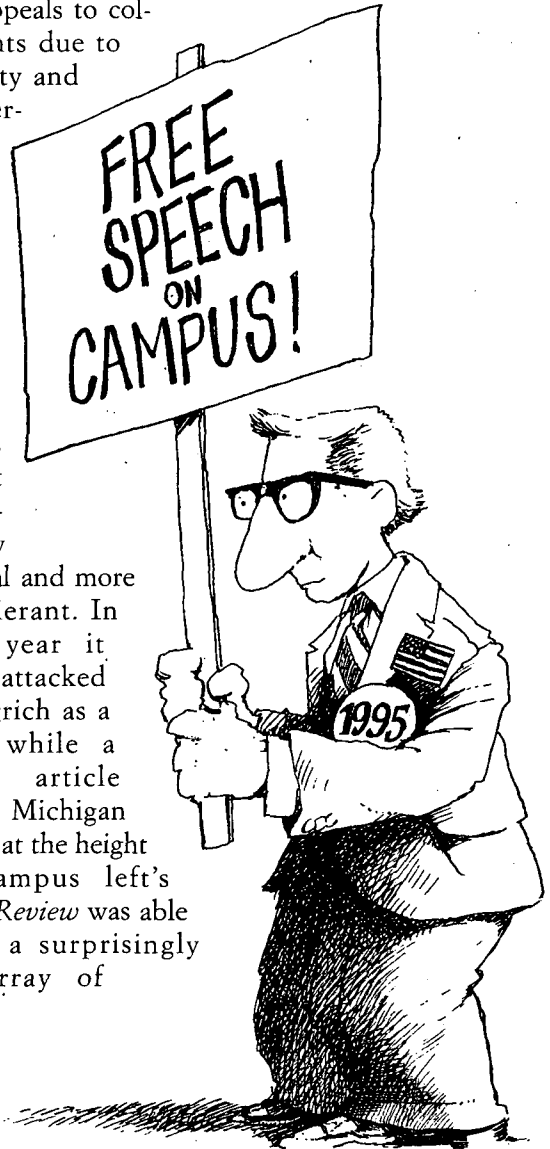
Peter Steiner. Most students believed that racism existed, but they came to see it primarily as a political label rather than as a social malady.

Conservatives at Michigan bore little resemblance to their national cohorts. Many had little or no identification with the Republican Party. Their unifying value was rebellion, not allegiance to the establishment. An increasingly dominant ideological strain on the right was libertarianism, which naturally appeals to college students due to its simplicity and

general aversion to authority. In the 1990s the *Review* gradually adopted libertarianism as a credo, which has made it simultaneously more radical and more socially tolerant. In the past year it repeatedly attacked Newt Gingrich as a "statist," while a December article praised the Michigan Militia. But at the height of the campus left's power, the *Review* was able to attract a surprisingly diverse array of thinkers.

In the fall of 1988, John Miller

came to campus as a freshman from Pompano Beach, Florida. At the time, he was hardly a prime candidate to join the Republican Party. Although not consciously ideological in high school, he was a politically active journalist and a member of Amnesty International. When the school administration tried to ban the group from



campus he had rallied to its defense. Like Tom Hayden almost thirty years before, Miller enrolled at Michigan determined to be a journalist and guided only by a vague distrust of authority. Only, instead of signing up with the *Daily* like Hayden, Miller joined the *Review*. Today Miller, a vice president at the neoconservative Center for Equal Opportunity, is one of the brightest young thinkers on the right.

The same year Miller arrived, the leftist party that controlled the student assembly attempted to withdraw official status and office space from a student group called Christians in Action because it hosted a singer who sang that “God hates queers.” Later in the semester, the Zionist organization Tagar, in response to a Diag shanty attacking Israel, erected its own shanty to commemorate the bombing of an Israeli schoolbus, emblazoned with the slogan, “Stop Arab Terrorism!” Campus activists immediately attacked Tagar for promoting anti-Arab racism. Although Tagar publicly apologized and changed the slogan to “Stop All Terrorism!,” MSA immediately moved to “derecognize” it, too.

These incidents helped to galvanize freshman Jesse Walker, a tall, lanky, red-bearded son of two liberal college professors. Walker arrived at Michigan with a well-developed iconoclastic left-libertarian ideology. Today he is an editor at *Liberty*. Although Walker was no stranger to leftist politics—as a high school radical who subscribed to *Mother Jones* and the *Nation* he had been called a communist—he “was immediately struck by the campus atmosphere of political correctness.” Right away Walker became active in a campus movement to force the assembly to automatically grant recognition to all student groups. This idea later became the central campaign theme of the assembly’s main opposition party, the Conservative Coalition.

The student opposition was not as conservative as it may have appeared to outsiders. The editor of the *Review*, and much of its staff, were Democrats. The same was true of the Conservative Coalition. James Green, a member of the Coalition and former president of MSA, was fond of saying, “A conservative on this campus is anyone who is either a Republican or a Democrat.”

But the fact that even moderate or liberal students found themselves consistently on the campus right affected their thinking. They joined organiza-

tions or social networks whose intellectual center of gravity was on the right. They began to see themselves as conservative. “When the only people rushing to your defense are a handful of conservative faculty members and, nationally, a handful of conservative pundits,” recalls Miller, “it’s not difficult to start identifying with them.”

In his book *The Sixties: Years of Hope, Days of Rage*, Todd Gitlin describes a clumsy propaganda film produced by the House Un-American Activities Committee in 1960 that sought to build support for its anti-Communist crusade. The effort was a self-parody, and New Left students employed it in their own recruiting efforts. “The Committee radiated thickheadedness and ineffectuality,” Gitlin writes, “the anti-Committee Left stood for eloquence and good humor.”

A similar dynamic was at work at Michigan. Multiculturalism was an official dogma, and for many college students that was reason enough to embrace the opposite viewpoint. Among students the voices of rebellion, and humor, were all on the right. The campus left, moreover, provided a steady stream of grist for its opponents.

When student voters in 1989 gave a majority of seats on MSA to the Conservative Coalition, the leftist majority then in control of the assembly invalidated the election on the basis of trumped-up technical glitches and instead appointed members of their own party to fill the seats. In 1993 a group of sociology graduate students charged professor David Goldberg with racial and sexual harassment, bullying the department chair into suspending his course without so much as a hearing. It turned out that the professor had merely questioned the statistical basis of many multicultural shibboleths. More common were daily absurdities: A speaker protesting jazz artist Miles Davis’s sexism called on her audience to “break his tapes, smash his albums, and burn his CDs until he agrees to rethink his views on the woman question.” No one in the audience thought to point out how difficult converting Miles Davis would be, since he was, at the time, dead. Incidents like these rolled by through the years, and although most students paid little attention to such affairs, those who did could not help but conclude that the left was inimically hostile to freedom of expression, fanatical in its thinking, and corrupt in its practices.

The thinking of college students is, if nothing

else, anti-establishment. In the 1960s, students were often initially politicized by small administrative infringements upon their everyday life. The Free Speech Movement at Berkeley arose in response to limits on expression far less draconian than Michigan's speech code.

Brian Jendryka, like John Miller, arrived at Michigan in 1988 as a prospective journalist with no political leanings. Jendryka, also repulsed by the *Daily*, was alarmed by the university's code and became interested in freedom of speech. Quite naturally, this led him to gravitate toward the campus right, where he followed Miller as editor of the *Review*.

Campus conservatism is not a new phenomenon. Universities have always had activity on the right. Neoconservatism, for instance, sprung up in the academy in the late 1960s and '70s as a reaction to the excesses of the time. Yet the institutional dynamics at the University of Michigan in the late 1980s were nearly the opposite: The left was demanding that the university exercise more authority over the lives of students, not less.

This new extension of administrative authority had a clear ideological purpose. Racial and gender oppression blotted out all other considerations in UCAR's intellectual universe, and it demanded that the university establish a variety of mechanisms to reflect that impulse. By and large, the university complied. It established a variety of programs to redress racism, including mandatory anti-racist orientation programs for freshmen, separate black lounges in every dorm, a racial harassment code, and the diversity course requirement. Implicitly, the administration accepted UCAR's view of the world. Hence the anti-institutional impulse became conservative.

Ultimately, Michigan's left was destroyed not by the galvanized conservatism it created but by itself. It is a sad irony that a newly resurgent left, rather than aiming outward to redress the world's evils, instead directed its energies almost entirely inward in a misguided attempt to achieve ideological hegemony in a small university enclave.

The left at Michigan identified its enemies as racial and sexual oppression endemic to Western civilization. Because it had no solutions other than

repressing these tendencies whenever they appear, it had no potential for sustained growth. In Michigan's tribalistic atmosphere, activists expressed political positions through the politics of identity. During the Gulf War, for example, non-white protesters split off from the main group to form their own "People of Color Against War and Racism." In addition to an end to the war, they demanded open admissions and free tuition for all people of color. Needless to say, women of color soon also had their own antiwar group.

"The focusing of political energy on points of difference," explains Gitlin, "has incapacitated the left to find points of political and/or economic commonality."

This certainly seems true today in Ann Arbor.

After a blistering 1989 federal court ruling struck down the code on First Amendment grounds, the administration immediately drew up another, narrower policy to limit racist speech. It was withdrawn in 1991 after a subsequent Supreme Court ruling made it clear that, if challenged, the new code was doomed to suffer the same fate as its predecessor. Its most fervent demand precluded by the Bill of

The anti-institutional impulse became conservative.

Rights, the campus left suddenly found it had nowhere else to turn. The life-sustaining flow of sit-ins and demonstrations trickled to a halt as the students originally called to the streets to fight racism graduated or moved on with their lives. UCAR's only visible legacy today is a university bureaucracy propagating a panoply of diversity programs under the rubric of the "Michigan Mandate," an administrative decree proclaiming the university's fealty to multiculturalism.

Gitlin's generation came of age during the moral clarity of the civil rights movement, only to see the battle bog down in the murkier terrain of racial separatism and affirmative action. Many of that generation are still grappling for solutions as simple and clear as those proposed during the 1960s. For college students today, there is no such conflict. For them, the debate about racism means only speech codes, separate minority facilities, and the like. Students now widely, however wrongly, associate these measures with liberalism. It is not too late for liberals to repudiate this distortion of their ideals. □

CRITICAL REVIEW

*An interdisciplinary quarterly focusing on the effects, politics,
and history of the modern state.*

"CRITICAL REVIEW gives every sign of actually becoming the place — so long talked about but to my knowledge never before realized — where serious scholars working in very different modes actually conduct useful discussions with each other." — *Bertell Ollman*

"One of the more interesting journals these days because it is scholarly, quirky, and unpredictable." — *Daniel Bell*

"An excellent publication." — *Anthony Giddens*

IN RECENT ISSUES

Liberals as Communitarians.....	Will Kymlicka, Charles Taylor
Communitarianism as Nationalism	Jeffrey Friedman
Community vs. State	Peter Simpson
Community and Happiness.....	James Hudson
Libertarianism vs. Free-Market Environmentalism	Terry Anderson, Mark Sagoff
On the Practicability of Liberalism	Leszek Kolakowski
Why Government Has Grown	Warren Samuels
Whither the Welfare State?.....	Theodore R. Marmor
Before the Welfare State	David Green, Alan Wolfe
Private Provision of Public Goods.....	Harold Demsetz, David Miller, Hal R. Varian
Human Rights in the Modern State	Harvey Mansfield
Locke: Liberal or Radical?	Richard Ashcraft, Thomas Horne
Was the USSR Socialist?	Alec Nove
Leftist Legal Formalism.....	Richard A. Posner
Monetary Malpractice at the Fed	James M. Buchanan & David I. Fand
Richard Rorty's Liberalism	Ronald Beiner
J. G. Merquior, 1941-1991	Ernest Gellner
F. A. Hayek, 1899-1992.....	Israel M. Kirzner
Hayek Revisited.....	Mark Blaug

FORTHCOMING

James Q. Wilson's theory of bureaucracy.

*

Symposia on rational choice in political science; nationalism and democracy;
evolutionary psychology and politics; wealth and happiness.

*

Public opinion formation in mass democracies.

Manuscript submission guide and back issue list available on request.

Annual (4 issue) U.S. subscriptions: \$15 students with copy of ID, \$29 individuals, \$54 institutions.
Outside U.S.: \$15 students, \$35 individuals via surface mail, \$62 institutions via surface mail; add \$15 for air
mail. Send check, money order, or Visa/MC number and expiration date to: CRITICAL REVIEW, Yale Stn.
Box 205416, Dept. 3, New Haven CT 06520, or fax credit card information to (203) 397-8170.

(ISSN 0891-3811)

THE COMMUNITY IS THEIR TEXTBOOK

BY SUZANNE GOLDSMITH

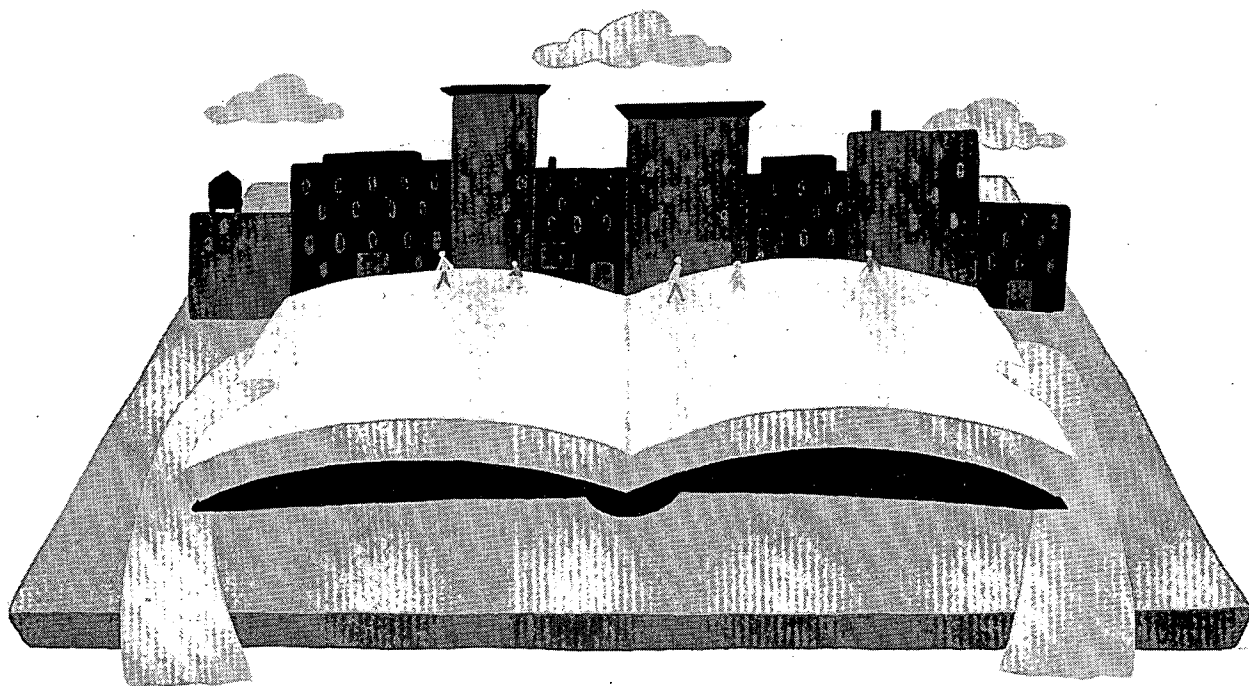
Not long ago I asked Rudy, a 17-year-old high school junior I tutored in a neighborhood teen center, how he planned to perform the hundred hours of community service now required for high school graduation in Washington, D.C. Rudy said he would probably sign up for a summer jobs program cleaning up his neighborhood. If he waives the pay, he told me, the work will count as community service.

Rudy could do worse. His block needs sprucing up and he may take pride in doing something that benefits his own neighbors. Yet he will work alongside kids his own age who are getting paid for the same job. When the streets are dirty again in a few weeks, will Rudy feel like the responsible citizen the service requirement aims to make of him? More likely, he will feel like a chump.

During the many years that Congress debated national service before creating AmeriCorps in 1993, the specter of a civil draft overshadowed discussion of what service programs and their participants might accomplish. As a voluntary program that gets ten applicants for every opening, AmeriCorps does not raise the issue of coercion. Mandatory service is alive and well, however, in high schools across the country. The National Information Center for Service-Learning in St. Paul, Minnesota, estimates that in 1993 more than a million high school students performed service through their school. Many of these students volunteer, but in a growing number of school districts, just as in D.C., serving the community is required for high school graduation. These programs have

**MARYLAND'S
EXPERIMENT
WITH
MANDATORY
SERVICE FOR
STUDENTS**

For subscriptions and bulk reprints call 1-800-872-0162



yet to catch the national media's eye, but they are sparking controversies in school districts across the country.

In Bethlehem, Pennsylvania, three high school students, all active in the community, refused to report their service efforts in fulfillment of a 50-hour requirement and sued the school board on the grounds that the requirement violated the constitutional prohibition of slavery. After they lost their case and the Supreme Court declined to hear an appeal, the schools refused the students their diplomas. In Chapel Hill, North Carolina, resentment over a service requirement runs deeper. Two students who filed suit to overturn the requirement have become heroes to many of their classmates. The school service coordinator resigned last fall, citing pressure from the lawsuit, and even reported receiving anonymous hate mail.

It's tempting to dismiss such resistance as either fringe libertarianism or just plain adolescent laziness. Schools, after all, require all kinds of things, from algebra to gym, and in most cases the service requirements amount to 12 to 25 hours a year—roughly the time required to write one or two research papers. But the protest of students like Aric Herndon, 14, one of the plaintiffs in the Chapel Hill case, resonate with seriousness. "It's not that I don't want to do volunteer work," Herndon told the *Raleigh News and Observer*. Indeed, Herndon is an Eagle Scout who has volun-

teered to build split-log benches for a school nature trail. "But when you're forced to do it, it's not a good thing. There's no heart in it."

Do school service requirements really destroy the virtues they are supposed to encourage? Or are they, as their proponents claim, an innovative way to instill values and citizenship in a generation of Americans said to be thin in both? What kinds of programs actually achieve valuable results? To answer these questions, I set out to examine more closely the school service programs in Maryland, the only state with a statewide service requirement.

AN EARLY START

The Maryland program did not come about quickly or easily. The original proposal was opposed by 23 out of 24 county school boards, the state teachers' union, the student representative to the Board of Education, and the Maryland Association of Student Councils. But after negotiation, a revised bill passed in 1992. The schools began phasing in the requirement last year. Under the law, Maryland school districts may choose between a simple 75-hour requirement (to be completed sometime between grades 6 and 12) and development of a district-wide alternative plan to incorporate service into the regular curriculum. Twenty-one of the state's 24 districts have chosen the second option.

Some districts have devised elaborate and sub-

stantive plans that begin as early as kindergarten. The success of an elementary school service program in Hebbville, Maryland, illustrates how properly administered service programs can accomplish two basic goals: teaching students about their communities, and providing those communities with valuable (and otherwise unavailable) services.

My visit to Hebbville begins with teacher Judy O'Connell's third-grade class, which every other week spends a morning visiting with residents of a local nursing home. While the children provide the residents with needed stimulation and a sense of being cared for, the act of reading aloud to a rapt audience improves the children's reading skills—and many of the seniors delight in helping with the hard words. The program not only encourages empathy, tolerance, and responsibility, but also strengthens the more basic learning skills that will help the students in the rest of their academic pursuits.

What makes O'Connell's program a success is its breadth. It extends well beyond the activity itself, immersing the students in both "preparation" and "reflection" sessions, as the emerging service pedagogy refers to them. Preparation in this case focuses primarily on helping students understand the aging process. On the day of my first visit, several fourth graders—veterans of O'Connell's program last year—are visiting the class to help prepare the third graders for their service experience. A boy named Trevor addresses a small group. He plays a short tape recording of garbled sounds, like a radio that is picking up more than one station. Then he asks the students about what they learned from the recording. They are, of course, confused; one says she felt as if she were deaf. "That's right," says Trevor. "That's what it's like for old people sometimes. They can't hear. If this was a real emergency, and there was a big storm coming, and you couldn't hear, how would you feel?"

Trevor and the other fourth graders are testimony to the project's impact. They carry themselves with dignity and listen carefully to the questions and concerns of the younger children. During a spirited panel session, they offer some surprisingly cogent summaries of the project. "I learned that it's fun making other people smile and be happy," says one boy. "And if you do more of it, other people will do it too and we won't have so many crimes and we will have a better community."

The third graders respond. When they board the bus for their first visit to Meridian Nursing Center, they already feel warmly toward their elderly partners. Shyness quickly dissolves into enthusiasm upon arrival, and during the "oral reflection" session afterwards, O'Connell gleans from a group conversation that her program has succeeded at least in encouraging more understanding and developing self-esteem. "In my journal I wrote that I was gonna be scared," says Matthew, "but it was fun and she said I was a good reader and a good student. . . . It felt good reading to them because they listened."

Subsequent evidence of the project's impact arrives in the parent evaluations at year's end. No lawsuits here—the responses are positively glowing. "It gives my child a sense of giving and sharing." "It makes them aware of different backgrounds and cultures other than their own." "It will definitely improve [my son's] reading skills." "You are producing children who will be ready to be better parents, teachers, spouses, employees, etc., than our generation has been."

FRONTLINE DUTY

Of course, those responses are also emblematic of the other factor reinforcing O'Connell's success. The parents in Hebbville, a predominantly black middle-class suburb of Baltimore, are engaged in their students' schooling and reinforce O'Connell's character lessons at home. The challenge is more daunting by the time Bob Black sees kids at Baltimore's Harbor City Learning Center. Harbor City is a school for students who have failed, been expelled, or been dropped from the rolls for poor attendance. Good citizenship is not the first issue here. The emphasis is on teaching the skills that many of these students need right away to be good workers and parents.

Not surprisingly, the results are mixed. Black says service-learning reaches many students who have not responded well in traditional classroom settings, and he is certainly correct. Performing valuable functions in hospitals, schools, and shelters boosts the students' self-esteem and ignites their thinking about possible careers. It also teaches how to satisfy basic requirements of the workplace such as timeliness, appropriate attire, and professional etiquette. Black's program is fairly rigorous—excused from school once a week to perform their service, students are required to make up the day's work—but the students respond. "I can't emphasize enough

how important this is that a young person walk into a class with an idea that they can have success," says Black. "We use [service learning] to get their feet walking again in education after they've been laid up with an academic accident."

The experiences of students like Tridonna Banks, 17, lend support to this claim. A long record of truancy sent Tridonna to Harbor City, and she confesses she selected the service-learning class to "do something different instead of just going to school every day." Yet when I visit Tridonna in the first-grade classroom where she works as an assistant, she seems an attentive instructor in a position of some responsibility. Mrs. Gilliam, her teacher, is pleased with the arrangement, which she says makes an "amazing difference." Tridonna "is able to do the one-on-one repetition that certain children need and I don't always have time to provide . . . and she provides a different kind of presence. They look up to her. They want her attention. And because her age is closer to theirs, they can sense that being successful isn't that far away."

Tridonna, meanwhile, absorbs lessons she can take home to her two-year-old boy. As a young teenage mother, Tridonna worries about her parenting skills and studies Mrs. Gilliam intently. "I am learning to be more patient with him," Tridonna says of her boy. "I used to get upset a lot. She [Mrs. Gilliam] tries to be more firm with them. She doesn't really have to raise her voice." When Tridonna spent many hours teaching a young girl having trouble with the alphabet, she started teaching her son to read, too. The girl, Mrs. Gilliam reports, now knows ten letters—"for her, a big improvement." As for Tridonna's two-year-old son, "He's up to E," Tridonna says proudly.

The program, however, can be too ambitious for its own good. Baltimore's Liberty Medical Center, for instance, allows students from Harbor City to enroll in an apprenticeship program that offers career counseling, "image awareness" seminars, mentoring, and other services. "We have a need to go further than just being a place for young people to do their community service," explains Barbara Swann, director of the hospital's Volunteer and School Partnership Program. "They think they're just

coming to do their community-service hours, but once they're here I've got them and I grab them and I can work with them and try to mold them. Because many of our young people, their self-esteem is just about zero."

It all sounds sensible enough. When I visit 18-year-old Dominique Wright at her service-learning job at the hospital, I find her at the "life skills" seminar. Along with 25 other young black students, she is engrossed by a dynamic young speaker who speaks in the familiar tongue of the street and presents a lesson that moves seamlessly from virginity and venereal disease to black pride. His

straight talk seems to be hitting home with Dominique and the others. Yet with all the image-awareness and self-esteem classes, Dominique has precious little time left over for actual service, which might help build self-esteem the old-fashioned way, by helping her earn it. When Dominique finally gets to her post in ambulatory surgery, where she prepares patients for procedures by taking their vital signs, she relishes the chance to do meaningful work. "You can see that with or without you they would get the job done, but the people you work with make you feel important anyway. They give you a wide range of responsibilities."

Another problem with Harbor City's program is all too familiar. Bob Black must keep tabs on 22 students in individual service placements while maintaining a full load of academic courses. Inevitably, some kids fall through the cracks. One student with whom I had an appointment not only didn't show at her service duty; it turned out she she hadn't been there in weeks. Her supervisor thought the program had ended.

The problem isn't Black or the program's design. It's the lack of resources. Learn and Serve, a component of the federal national service program, offers schools money to help cover costs of school service-learning programs, and many use the grants to free teachers from other responsibilities to oversee service. But with only \$50 million appropriated this year, Learn and Serve doesn't go far.

FROM ASSIGNMENT TO INVOLVEMENT

Insufficient resources are not a problem in Maryland's more affluent districts, where some teachers are making more ambitious attempts to use service as a means for teaching other parts of the

"Schoolwork is slavery," says Matt, "This is fun."

curriculum. But even these schools display some of the same problems that plague Harbor City. When the service itself is a challenging and productive activity, it instills in students a real fire for learning. But when service amounts to busywork, it becomes just another classroom assignment.

I found an example of the latter in a farm community. Joey Hoffman, a former Peace Corps volunteer and a high school English teacher in Middletown, works community service into her English courses. She has students read texts that can spark discussion of social issues and then asks them to plan and implement a small-scale service project. Students in Hoffman's class have planted trees and acted as escorts to disabled people; others have simply made posters to encourage recycling. The experience can be more inspiring for some than others.

But in a more structured elective service project, Hoffman can do more. In her elective service-learning class, which requires good grades and teacher recommendations, students tutor other students. The first year, 11 students signed up; two years later, there are 75. By now nearly a quarter of the students in the school have taken the class, and that success may be promoting a culture that encourages involvement in volunteer service. Last year students at Middletown High School started the school's first community-service club, with members required to participate in ongoing service. Today, the club has a membership of 130.

At Western Heights Middle School in Hagerstown, that culture has already taken root. Seventh-grade science teacher Ellen Hayes and social studies teacher Pat Bratcher have joined forces to develop projects that touch on both their subject areas. This year, their students are working on an environmental unit that began when Hayes stumbled upon an opportunity to get free maps detailing local watershed areas. After studying the maps, students went out to look at a creek near the school and learned to take water samples and test for pollutants. Soon they were testing all the streams in the area, tracing the water's path from landlocked Hagerstown to the Chesapeake Bay. In the process, they learned about seepage and dumping, the role of wetlands in purifying the water table, and current efforts to clean up Chesapeake Bay. They applied to the Chesapeake Bay Trust for scholarships that would allow them to make a weekend trip to an island in the bay to get a first-

hand look at the fish and bird habitats affected by pollution. For many of them, it was the first time they had seen the ocean.

Afterward, the students took on a missionary zeal. They petitioned the city council for permission to paint notices on the storm drains around town: "Don't Dump—Chesapeake Bay Drainage." They decided to convert a muddy holding pond behind the school into a wetlands area. They also scripted their own demonstration about the impact of human activities on water quality over history and began making presentations to other students and civic groups in town.

"We've seen enormous development of citizenship skills," says Pat Bratcher. "They're like little detectives. 'This is a problem; how can we fix it?'" What makes this unit even more remarkable, however, is that in addition to learning environmental stewardship and social cooperation, students are increasing their knowledge in geography, biology, government, and other areas. In Hagerstown, the school district's service-learning plan integrates so much service into academic classes that students complete the 75-hour requirement before they get to high school. When I tell these children about the lawsuits in North Carolina and New York, they're surprised. "Schoolwork is slavery," says Matt. "This is fun."

LOBBYING 101

Still, for all of their enthusiasm, the students in Hagerstown have stumbled upon what may yet prove to be the thorniest controversy surrounding mandatory service. Exposing students to problems in the community inevitably politicizes them. Often, as in Bratcher's class, they want to act on those concerns. But what happens when the students want to count those activities as their service? Who decides when it is acceptable?

Maryland's service-learning curriculum is fairly vague on the topic, condoning a wide range of political projects. It describes advocacy, or civic action, as "the work of citizenship," and includes in its definition community organizing and lobbying the government. "Young people can be very effective at this kind of civic action, especially if they are working on a cause they and the community feel is very important," the guide says.

But a close reading of the guide itself suggests where problems may arise. Describing possible advocacy projects to combat illiteracy, it proposes,

among other things, lobbying the city council or state legislature for more funds for schools. No doubt this would please teachers and school administrators, and it may well be a worthy cause. What would taxpaying parents have to say, though,

What happens when a class pickets a pollution-spewing plant that happens to employ one of the student's parents?

when they showed up at a city council meeting and found their sons and daughters leading a protest? Would they have a right to object?

What's disturbing is that the authors' thinking on the perils of school-sponsored political activity is

conspicuously naive. My brush with educators—admittedly an unscientific sample—turned up an unsettling lack of self-awareness about how the causes they perceive to be “good” might not seem that way to everybody. Many had searched their souls to decide how they should respond if students asked to receive service credit for advocacy on behalf of causes that would be considered “conservative”—working against abortion, for instance. Few, however, had raised similar questions about student advocacy for liberal causes.

There's no easy answer. Lawmakers can't simply limit advocacy to campaigns of universal appeal, for even consensus around the most innocuous causes breaks down when you get to specifics. Sure, everybody wants to protect the environment, and it's great to teach children about their ecosystem. But what happens when a class decides to picket a pollution-spewing plant that happens to employ one of the students' parents? Should projects sponsored by churches be included? What if they involve religious proselytizing? (Most schools say no.) What about work on political campaigns? (Policies vary.) Civil disobedience?

Precisely to avoid this problem, Congress expressly excluded lobbying from the list of jobs that participants in AmeriCorps could perform. Because AmeriCorps participants are paid, they are properly held to the same standards as government employees with regard to lobbying activities. But since high school service is specifically concerned with developing civic virtue, applying the same for-

mula seems a bit odd.

A more farsighted answer to this sticky problem would be to fling the doors a lot farther open. The real danger of mandatory service-learning lies not in forcing students to donate their time to helping meet local needs, but in allowing school officials broad discretion to decide where and how they should do so. Better to let students decide. Teachers' emphasis should be on encouraging students to develop their critical thinking skills by gathering lots of information on all sides of an issue before taking a stand. They can best help students learn from service by refusing to settle for knee-jerk advocacy and making students support their positions on the causes they choose to espouse. Then service-learning will produce real citizens.

It's important to realize that such an approach to student advocacy might endanger existing support for service-learning in schools. Students will inevitably seek credit for internships with the National Organization for the Reform of Marijuana Laws (which is, after all, an IRS-accredited, tax-exempt charity). The attention given to a student who is outraged because the schools will not give her credit for her work lobbying against abortion rights is nothing compared to the outcry that would ensue if a school did grant her credit. Ditto for a student (this is a real case) who seeks credit for time he spent picketing against gay rights. Communities will struggle hard with these issues. But the classroom discussions will stimulate just the kind of civic education that students ought to have.

MAKING SERVICE WORK

Full compliance with Maryland's service requirement is still a long way away. Marilyn Smith, director of the Governor's Commission on Service, says that when she travels to outlying rural areas to talk about the plan, she still sometimes encounters principals and teachers who are unaware of the law. Fireworks are likely in 1997, when schools will begin denying diplomas to students who have not fulfilled the requirement. In the meantime, we can draw a few conclusions.

For starters, the most ambitious aspect of the Maryland program, its goal of integrating service across the curriculum, is promising but difficult to implement. Educators seeking to make their subjects more immediate, relevant, and engaging should relish—and try to replicate—the success of such projects as the environmental unit that led

Hagerstown children to build their own wetlands. But half-hearted efforts to blend service with academics will likely result in activities that are a waste of time. Real academic service learning will require extensive teacher training and considerable commitment from school districts. Maryland is now moving to include service learning in the curriculum at state teachers' colleges, but it will take time before teachers learn how to run service learning well.

In the meantime, schools can increase students' civic awareness and enthusiasm about community participation with far more modest efforts and without the crutch of coercion. One elective service-learning class, taught by a creative and enthusiastic teacher, can do much to increase the entire student body's interest in community service. The Middletown High School tutoring class shows how students can find valuable service opportunities without even leaving the school. If every high school in the nation offered just one elective service-learning course (with a dedicated teacher leading the way), the increase in student service activity—and, I suspect, related increases in everything from community recycling participation to voter registration among 18-year-olds—would be exponential.

Educators are not the only ones who can support such efforts. By making it clear that past participation in community service is a valued credential, colleges and employers can do much to encourage the expansion of student service efforts. And community nonprofits can encourage service learning by developing volunteer placements that are appropriate and interesting for school-aged youth.

Reassigning teachers is costly. But policymakers need to recognize that while community service learning has promise as a vehicle for reinvigorating education and countering civic apathy among youth, it won't work without a commitment of time and money. Schools can't place students in community service internships during the school day unless a teacher has time to oversee their work. Even in schools where service assignments are carried out after school and on weekends, someone must be available to develop placements, communicate with students' supervisors in the field, troubleshoot, and handle students' questions and concerns. If AmeriCorps survives the Republicans' budget-cutting fervor, national service participants might effectively fill this role.

Maryland's experience shows that a statewide service requirement can work to get the ball rolling

at the local level. But the requirement should apply to schools, not to students. A more effective regulation would require schools to develop voluntary service-learning courses and to provide them with funding keyed to the numbers of students who elect to enroll. Teachers could compete for the opportunity to receive training in service-learning methods, and get extra compensation for passing on the training to other teachers in their school.

Finally, schools need to stop worrying about defining service. Only by wending their way through the tricky issues that any engagement with community problems presents will students truly learn from service. The more direct confrontation students have with community needs, the more information they will gather to help them make decisions and choices—and the less vulnerable they will be to indoctrination by teachers, nonprofit scam artists, or radio talk-show hosts.

A couple of months after our conversation about community service, Rudy—the student I tutored—quit the after-school program to take a part-time job at Boston Chicken. I dropped by to see him at work and found him wrapping brownies, looking smart and cheerful in his new uniform. But within a month, he had been laid off. The manager encouraged him to keep calling in case a slot became available, but after a couple of tries he gave up.

He still hasn't fulfilled the community service requirement, although he did work a day for pay in the street-cleaning program. He wanted the money for a haircut. "It was boring," he says of the cleanup work. He doesn't want to rejoin the tutoring program, either. He hangs out at home, watching TV. And his grades, never great, are getting worse. He's probably at risk of dropping out of school.

I can't help wondering what might happen if his teachers were challenging him to do something useful, rather than trying to keep him busy with homework worksheets. It's good to be needed—I felt the sting when Rudy stopped coming to me for tutoring. What if Rudy were needed somewhere each day, as Tridonna Banks is needed in her first-grade classroom in Baltimore? At its essence, service learning has the power to help students learn that each person in our society is needed—and that what they have to offer counts. For Rudy, and for countless others, it's a lesson that can't come a moment too soon. □

HOW THE PIE IS SLICED

AMERICA'S GROWING CONCENTRATION OF WEALTH

EDWARD N. WOLFF

Conservative economic policy has one central idea: just create a bigger pie, and everyone will have a bigger slice. In fact, conservatives predict that if we cut the rich a bigger piece by lowering their tax rates, the resulting growth will enlarge everyone else's slice, too. This was the core idea of Reagan's tax cuts, and it is central to such current conservative goals as lower capital gains taxes.

Unfortunately, since the 1980s the great majority of Americans have not been getting bigger slices from a growing pie. As many people have noted, median family income has failed to grow. The picture is even more stark for gains in wealth than for gains in income. New research, based on data from federal surveys, shows that between 1983 and 1989 the top 20 percent of wealth holders received 99 percent of the total gain in marketable wealth, while the bottom 80 percent of the population got only 1 percent. America produced a lot of new wealth in the '80s—indeed, the stock market boomed—but almost none of it filtered down.

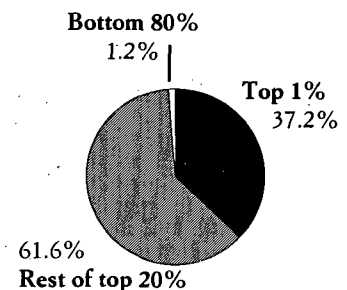
Few people realize how extraordinarily concentrated the gains in wealth have been. Between 1983 and 1989 the top 1 percent of income recipients received about a third of the total increase in real income. But the richest 1 percent received an even bigger slice—62 percent—of the new wealth that was created (see figure at right).

The most recent data suggest these trends have continued. My preliminary estimates indicate that between 1989 and 1992, 68 percent of the increase in total household wealth went to the richest 1 percent—an even larger share of wealth gain than between 1983 and 1989. As a result, the

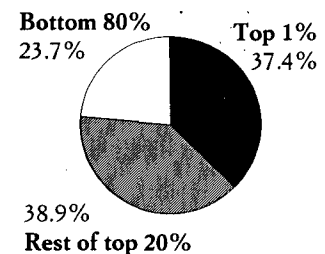
WINNERS AND LOSERS IN THE 1980s

Percent of real wealth and income growth accruing to the top 1, next 19, and bottom 80 percent of families, 1983-1989

Wealth Growth



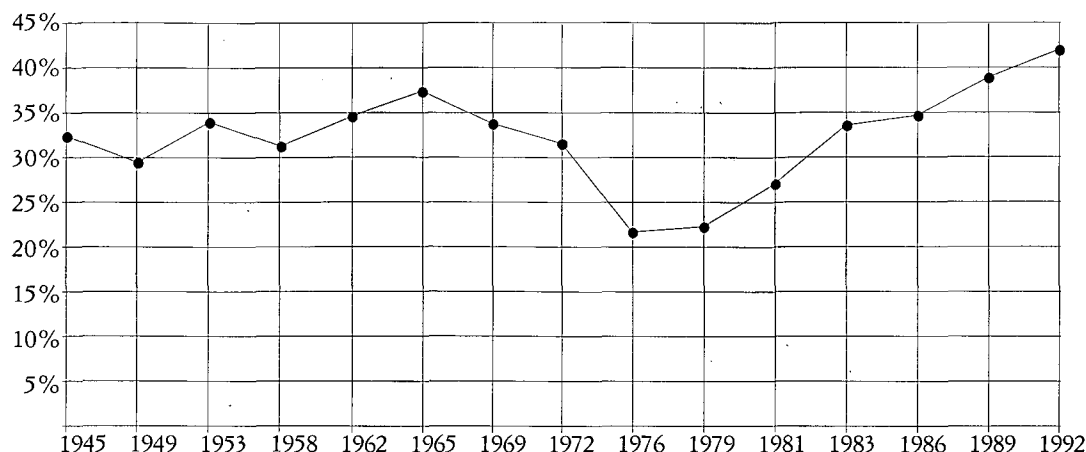
Income Growth



For subscriptions and reprints call 1-800-872-0162

CONCENTRATION OF WEALTH

Share of wealth owned by the top 1 percent of families, 1945-1992



concentration of wealth reached a postwar high in 1992, the latest year for which data are available. If these trends continue, the super rich will pull ahead of other Americans at an even faster pace in the 1990s than they did in the '80s.

Growing inequality in the distribution of wealth has serious implications for the kind of society we live in. Today, the average American family's wealth adds up to a comparatively meager \$52,200, typically tied up in a home and some small investments. While *Forbes* magazine each year keeps listing record numbers of billionaires—in 1994 *Forbes* counted 65 of them in the U.S.—homeownership has been slipping since the mid-1970s. The percentage of Americans with private pensions has also been dropping. And, with their real incomes squeezed, middle-income families have not been putting savings aside for retirement. The number of young Americans going to college has also begun to decline, another indirect sign of the same underlying phenomenon. In fact, international data now indicate that wealth is more unequally distributed in the U.S. than in other developed countries, including that old symbol of class privilege, Great Britain.

Economic worries may be at the root of much of the political anger in America today, but there is almost no public debate about the growth in wealth inequality, much less the steps needed to reverse current trends. The debate needs to start

with an understanding of how and why America's pie is getting sliced so unequally.

REVERSAL OF FORTUNES

The increasing concentration of wealth in the past 15 years represents a reversal of the trend that had prevailed from the mid-1960s through the late 1970s. The share of total wealth owned by the rich depends, to a large extent, on asset values and therefore swings sharply with the stock market, but some trends stand out (see figure above). During the twenty years after World War II, the richest 1 percent of Americans (the "super rich") generally held about a third of the nation's wealth. After hitting a postwar high of 37 percent in 1965, their share dropped to 22 percent as late as 1979. Since then, the share owned by the super rich has surged—almost doubling to 42 percent of the nation's wealth in 1992, according to my estimates.*

Two statistics—median and mean family wealth—help to tell the story of growing wealth inequality in America. A median is the middle of a distribution, the point at which there are an equal number of cases above and below. Median family wealth represents the holdings of the average family.

* See my monograph, *Top Heavy: A Study of Increasing Inequality of Wealth in America* (New York: Twentieth Century Fund, 1995) for technical details on the construction of this series.

Mean family wealth is the average in a different sense: total wealth divided by the total number of families. If a few families account for a large bulk of the nation's wealth, the mean will exceed the

median. The changing ratio between the mean and median is one measure of changes in wealth inequality.

Data from the 1983, 1989, and 1992 Survey of Consumer Finances conducted by the Department of Commerce show that mean wealth has indeed been much higher than the median: \$220,000 versus \$52,000 in 1992. And mean wealth has grown more rapidly—by 23 percent from 1983 to 1989, and by another 12 percent in the following three years, while median wealth increased by only 8 percent between 1983 and 1989 and then barely moved up at all from 1989 to 1992 (see “Median and Mean Wealth and Income,” left). As a result, between 1983 and 1989 the ratio of mean to median wealth jumped from 3.4 to 3.8.

Data for 1992 are as yet incomplete. However, the figures available indicate that the ratio of mean to median wealth saw another steep rise between 1989 and 1992, from 3.8 to 4.2. On the basis of a regression analysis of the historical relation between this ratio and the share of wealth held by the top 1 percent of families, I estimated their share at 42 percent in 1992.

Income inequality also increased over the same period. From 1983 to 1989, the share of the top 20 percent increased from 52 to 56 percent, while that of the remaining 80 percent decreased from 48.1 to 44.5 percent (see “. . . And the Rich Get Richer,” next page). The preliminary evidence from the 1992 Survey of Consumer Finances suggests a further rise in income inequality between 1989 and 1992 (the ratio of mean to median income increased from 1.57 to 1.61), though this change is much more muted than from 1983 to 1989 (when the ratio moved upward from 1.42 to 1.57).

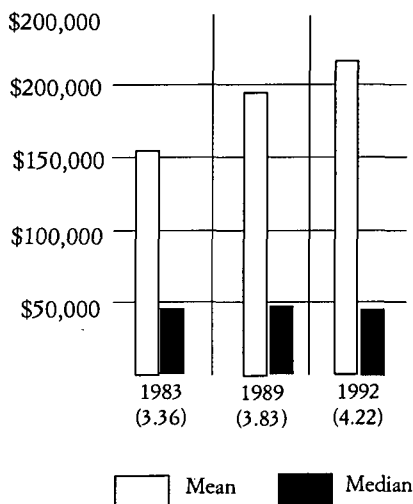
By the 1980s the U.S. had become the most unequal industrialized country in terms of wealth. The top 1 percent of wealth holders controlled 39 percent of total household wealth in the United States in 1989, compared to 26 percent in France in 1986, about 25 percent in Canada in 1984, 18 percent in Great Britain, and 16 percent in Sweden in 1986. This is a marked turnaround from the early part of this century when the distribution of wealth was considerably more unequal in Europe (a 59 percent share of the top 1 percent in Britain in 1923 versus a 37 percent share in the U.S. in 1922).

The concept of wealth used here is marketable wealth—assets that can be sold on the market. It

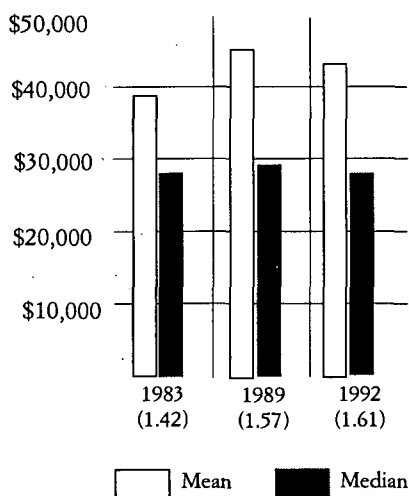
MEAN AND MEDIAN WEALTH AND INCOME

(mean to median ratio in parenthesis)

Wealth



Income



Sources: author's computations from the 1983 and 1989 Survey of Consumer Finances; Arthur B. Kennickell and Martha Starr-McCluer, "Changes in Family Finances from 1989 to 1992: Evidence from the Survey of Consumer Finances," *Federal Reserve Bulletin* 80 (October 1994), 861-882.

does not include consumer durables such as automobiles, televisions, furniture, and household appliances; these items are not easily resold, or their resale value typically does not reflect the value of their consumption to the household. Also excluded are pensions and the value of future Social Security benefits a family may receive.

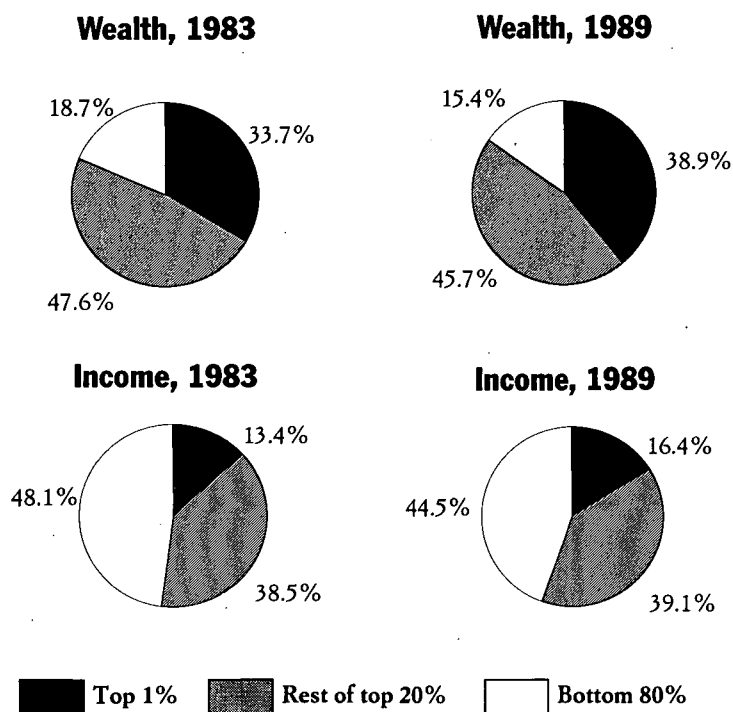
Some critics of my work, such as the columnist Robert Samuelson of the *Washington Post*, argue that a broader definition of wealth shows less concentration. To be sure, including consumer durables, pensions, and entitlements to Social Security reduces the level of measured inequality. The value of consumer durables amounted to about 10 percent of marketable wealth in 1989; including them in the total reduces the share of the top 1 percent of wealth holders from 39 percent to 36 percent. Adding pensions and Social Security "wealth," which together totaled about two-thirds of mar-

ketable wealth, has a more pronounced effect, reducing the share of the top 1 percent from 36 percent to 22 percent. However, even though pensions and Social Security are a source of future income to families, they are not in their direct control and cannot be marketed. Social Security "wealth" depends on the commitment of future generations and Congresses to maintain benefit levels; it is not wealth in the ordinary meaning of the term.

Moreover, the inclusion of consumer durables, pensions, and Social Security does not affect trends in inequality. With these assets included, the share of the richest 1 percent reached its lowest level in 1976, at 13 percent, and nearly doubled by 1989 to 22 percent. Nor does it affect international comparisons. For example, using this broader concept of wealth, we still find that the share of the top 1 percent in the U.S. is almost double that of Britain in 1989—22 percent versus 12 percent.

... AND THE RICH GET RICHER

Changing shares of wealth and income, 1983 and 1989



Sources: author's computations from the 1983 and 1989 Survey of Consumer Finances; Kennickell and Starr-McCluer, 1994.

WHY THE RICH GOT RICHER

Part of the explanation for growing wealth concentration lies in what has happened to the different kinds of assets that the rich and the middle class hold. Broadly speaking, wealth comes in four forms:

- homes;
- liquid assets, including cash, bank deposits, money market funds, and savings in insurance and pension plans;
- investment real estate and unincorporated businesses; and
- corporate stock, financial securities, and personal trusts.

Middle-class families have more than two-thirds of their wealth invested in their own home, which is probably responsible for the common misperception that housing is the major form of family wealth in America. Those families have another 17 percent in monetary savings of one

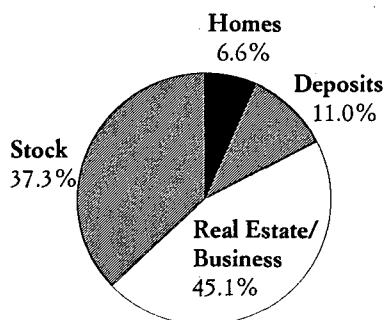
form or another, with only a small amount in businesses, investment real estate, and stocks. The ratio

Thus, for most middle-class families, wealth is closely tied to the value of their homes, their ability to save money in monetary accounts, and the debt burden they face. But the wealth of the super rich has a lot more to do with their ability to convert existing wealth—in the form of stocks, investment real estate, or securities—into even more wealth, that is, to produce “capital gains.”

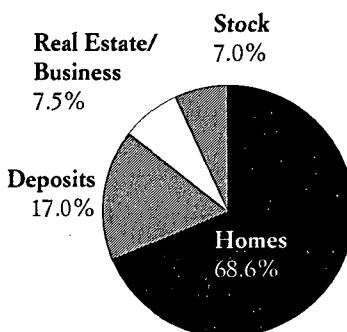
Sure enough, we find that when wealth inequality was on the rise, so was the relative importance of capital gains. Between 1962 and 1969, conventional savings—the difference between household income and expenditures—accounted for 38 percent of the growth of wealth, but from 1983 to 1989 conventional savings accounted for just 30 percent of increased wealth. Conversely, capital gains became a bigger factor in the ‘80s. The immediate causes lay in a falling savings rate and more rapid growth in the value of stocks than in the value of homes. In addition, the homeownership

THE COMPOSITION OF HOUSEHOLD WEALTH, 1989

The Super Rich*



Middle-Income Families**



* Defined as families in the top 1 percent of the wealth distribution, with a net worth of \$2.35 million or more in 1989.

** Defined as families in the middle quintile, with incomes between \$21,200 and \$34,300 in 1989.

Homes refers to owner-occupied housing; **Deposits** to liquid assets (cash, bank deposits, money market funds, cash surrender value of insurance and pension plans); **Real Estate/Business** to investment real estate and unincorporated businesses; **Stock** to corporate stock, financial securities, personal trusts, and other assets.

Source: author's computations from the 1989 Survey of Consumer Finances.

of debt to assets is very high, at 59 percent.

In contrast, the super rich invest over 80 percent of their savings in investment real estate, unincorporated businesses, corporate stock, and financial securities. Housing accounts for only 7 percent of their wealth, and monetary savings another 11 percent. Their ratio of debt to assets is under 5 percent.

Viewed differently, more than 46 percent of all outstanding stock, over half of financial securities, trusts, and unincorporated businesses, and 40 percent of investment real estate belong to the super rich. The top 10 percent of families as a group account for about 90 percent of stock shares, bonds, trusts, and business equity, and 80 percent of non-home real estate. The bottom 90 percent are responsible for 70 percent of the indebtedness of American households. (See “Assets Held Primarily by the Wealthy,” page 63, and “Assets and Liabilities Held Primarily by the Non-Wealthy,” page 64.)

rate (the percentage of families owning their own home), which had risen 1 percent during the 1960s, fell during the 1980s, by 1.7 percent. The extension of homeownership would suggest a widening diffusion of assets to the middle class. Alas, the homeownership rate peaked in 1980 at 65.6 percent and has been falling ever since.

Widening income inequality was clearly a factor in the growing concentration of wealth. Income inequality did not change much during the 1960s but has risen markedly ever since the early ‘70s. The wealthy save proportionally more than the middle class. So when the wealthy get a larger share of total income, their share of savings will increase even more. Not surprisingly, between the 1960s and 1980s, the percentage of income saved by the upper third of families has more than doubled, from 9.3 to 22.5 percent. That increase was partly

spurred by generous tax cuts during the Reagan years, which were intended precisely to bring about that result.

In contrast, the middle third of the population saved almost 5 percent of its income during the 1960s but by the 1980s saved virtually nothing. This drop in savings reflected the growing squeeze on the middle class from stagnating incomes and rising expenses; the Reagan tax cuts did not produce their predicted effects on this group. The bottom third has historically saved none of its income, and the Reagan years did not turn them into savers and investors as Jack Kemp's happy vision suggested.

According to my estimates, the chief source of growing wealth concentration during the 1980s was capital gains. The rapid increase in stock prices relative to house prices accounted for about 50 percent of the increased wealth concentration; the growing importance of capital gains relative to savings explained another 10 percent. Increased income inequality during the decade added another 18 percent, as did the increased savings propensity of the rich relative to the middle class. The declining homeownership rate accounted for the remaining 5 percent or so.

In short, wealth went to those who held wealth to begin with. For those who didn't have it, savings alone were not sufficient to amass wealth of great significance.

ARE THERE REMEDIES?

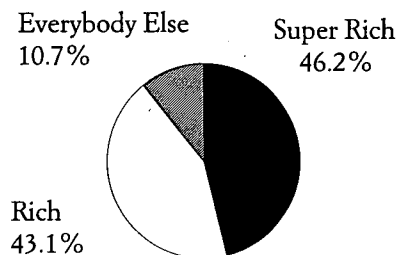
These trends raise troubling questions. Will the increasing concentration of

wealth further exacerbate the tilt of political power toward the rich? Might it ultimately set off an extremist political explosion? Is it compatible with renewed economic growth?

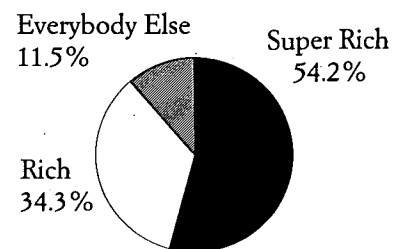
At least the surface evidence suggests that equality and growth are complementary. The high growth rates of the 1950s and 1960s occurred during a period of low inequality. The slowdown in

ASSETS HELD PRIMARILY BY THE WEALTHY

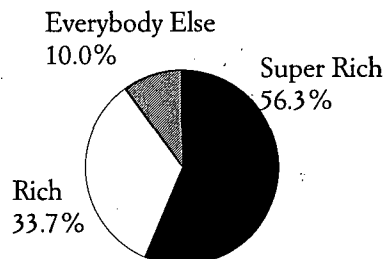
Stocks



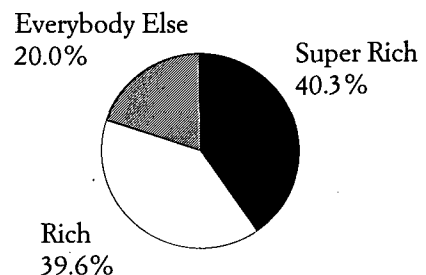
Bonds



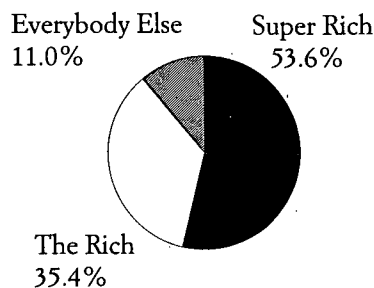
Business Equity



Non-Home Real Estate



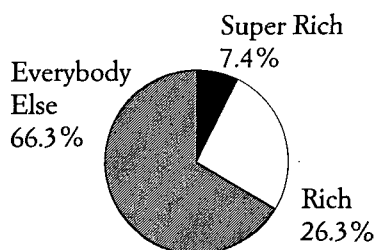
Trusts



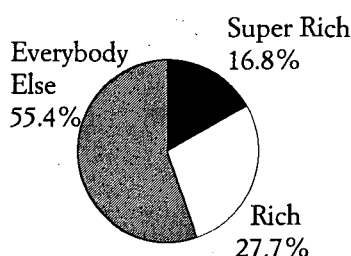
Source: Author's computations from the 1989 Survey of Consumer Finances. Families are classified into wealth class on the basis of their net worth. In the top 1 percent of the wealth distribution (the **Super Rich**) are families with a net worth of \$2,350,000 or more in 1989; in the next 9 percent (the **Rich**) are families with a net worth greater than or equal to \$346,400 but less than \$2,350,000; in the bottom 90 percent (**Everybody Else**) are families with a net worth less than \$346,400.

ASSETS AND LIABILITIES HELD PRIMARILY BY THE NON-WEALTHY

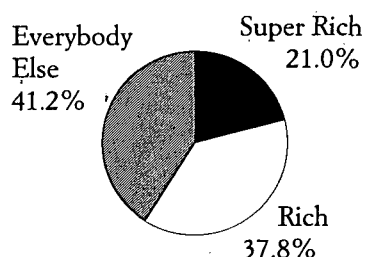
Principal Residence



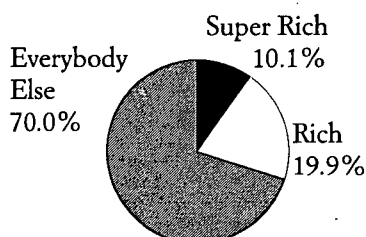
Life Insurance



Deposits



Total Debt



Source: Author's computations from the 1989 Survey of Consumer Finances. Families are classified into wealth class on the basis of their net worth. In the top 1 percent of the wealth distribution (the **Super Rich**) are families with a net worth of \$2,350,000 or more in 1989; in the next 9 percent (the **Rich**) are families with a net worth greater than or equal to \$346,400 but less than \$2,350,000; in the bottom 90 percent (**The Rest**) are families with a net worth less than \$346,400.

* Deposits includes cash, currency, demand deposits, savings and time deposits, money market funds, certificates of deposits, and IRA and Keogh accounts.

growth that began in the 1970s was accompanied by rising inequality in both income and wealth. High levels of inequality put better training and education out of the reach of more workers and may breed resentment in the workplace. Analyses of historical data on the U.S. as well as comparative international studies confirm a positive association between equality and growth.

Diffusing wealth more broadly will not be easy. Some of the causes of growing income and wealth inequality lie in changes in the global economy for which no one has any ready policy response. However, the experiences of European countries as well as our neighbor Canada, which are subject to the same market forces, suggest that shifting the tax burden toward the wealthy would spread wealth

more widely. In the U.S., marginal income tax rates, particularly on the rich and very rich, fell sharply during the 1980s. Although Congress raised marginal rates on the very rich in 1993, those rates are still considerably lower than they were at the beginning of the 1980s. And they are much lower than in western European countries with more equal distributions of income and wealth.

Another strategy to consider is direct taxation of wealth. Almost a dozen European countries, including Denmark, Germany, the Netherlands, Sweden, and Switzerland, have taxes on wealth. A very modest tax on wealth (with marginal tax rates running from 0.05 to 0.3 percent, exempting the first \$100,000 in assets) could raise \$50 billion in revenue and have a minimal impact on the tax bills of 90 percent of American families. Even with an exemption of \$250,000, such a tax would raise \$48 billion.

On the other side of the ledger, the financial well-being of the poor and lower-middle class would be much improved by social transfers similar to Canada's, including child support assurance, a rising minimum wage, and extension of the earned income tax credit.

None of these measures appears politically feasible today. Instead, the current majority leader of the House is promoting a flat tax that would cut in half income tax rates for the rich and entirely eliminate taxes on capital gains. Many prominent Republicans have embraced the flat tax and argued that it should be central to the 1996 election. The rush to give the rich an even bigger piece of the pie ought to be stimulus enough to start a national conversation about where America's wealth is going. □

Stuck in the Dole-drums?

Are politics hitting a sour Newt?

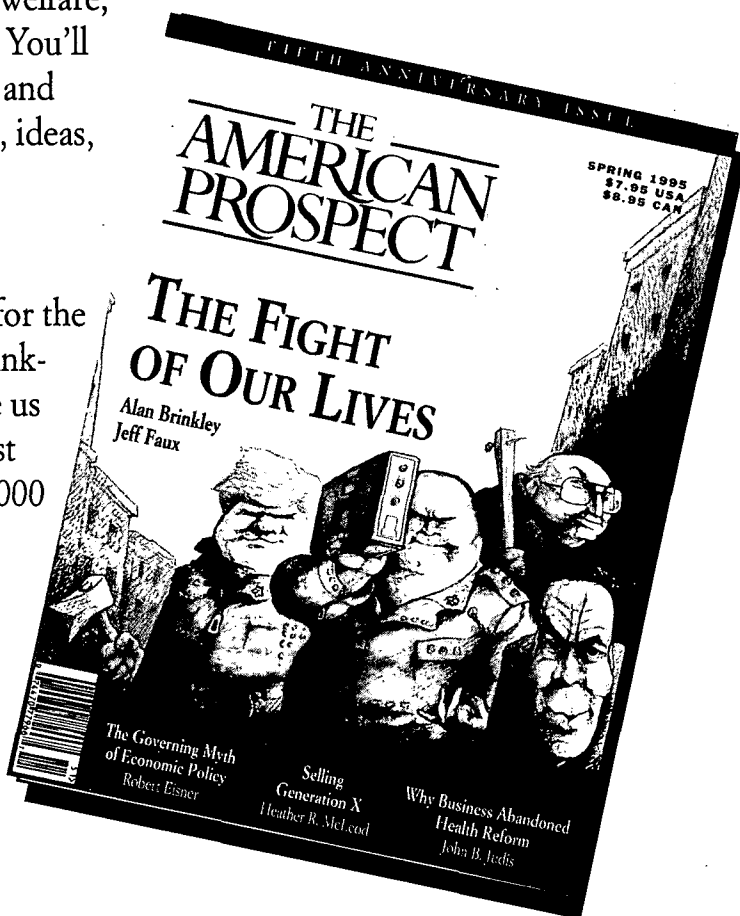
Then maybe it's time you subscribed to **THE AMERICAN PROSPECT**, the liberal antidote to conservative fevers. In these pages, you'll find the most coherent challenges to right-wing dogma about welfare, health care, economics, and more. You'll also find provocative commentary and unconventional analysis of politics, ideas, the trends of our times.

For five years **THE AMERICAN PROSPECT** has been the source for the nation's most innovative liberal thinking. In 1994, the *Utne Reader* gave us its Alternative Press Award for Best Magazine with a circulation of 15,000 or less. Next time we hope to win the *over 15,000* award.

When *House Beautiful* took a picture of the Oval Office last year, they accidentally caught what was on President Clinton's desk: **THE AMERICAN PROSPECT**. Maybe it should also be on yours.

Treat yourself to a sub for just \$25. And if you know of friends, family, or colleagues who would appreciate getting in on the new liberal conversation, give a gift subscription for just \$18.

To subscribe or order back issues, call 1-800-872-0162 or send the enclosed card to P.O. Box 383080, Cambridge MA 02238.



THE JOB GHETTO

By Katherine Newman and Chauncy Lennon

To fix the welfare mess, conservatives say, we should stop making life on the dole so comfortable, cut benefits, and force over-indulged welfare moms to go out and find honest jobs. Unskilled foreigners can find work, so why can't AFDC recipients? With unemployment rates down, these expectations sound reasonable, particularly to middle-class Americans with stagnating incomes. The premise that jobs are available for those willing to take them is a great comfort to politicians with budget axes in hand and to conservative commentators calling on them to slash benefits. After all, they can claim they're not really casting poor women and children into the streets; they're just upholding the American work ethic.

But can just any warm body find a job? For the past two years, we have studied the low-wage labor market in Harlem, focusing on minimum-wage jobs in the fast-food industry, which are typical of the employment opportunities many reformers have in mind for welfare recipients. After all, these jobs presumably demand little skill, education, or prior work experience—or so the public believes.

The fast-food industry is growing more rapidly than almost any other service business and now employs more than 2.3 million workers. One in 15 Americans working today found their first job at McDonald's—not including Burger King and the rest. As a gateway to employment, fast-food establishments are gaining on the armed forces, which have long functioned as a national job-training factory. No wonder the average citizen believes these jobs are wide open! Yet, in inner cities, the picture looks different. With manufacturing gone, fast-food jobs have become the object of fierce competition.

DOWNWARD PRESSURES

Between 1992 and 1994, we tracked the work histories of 200 people working in fast-food restaurants in central Harlem, where according to official data about 18 percent of the population are unemployed and about 40 percent live below the poverty

line. These numbers are typical of the communities where many long-term recipients of public assistance will have to look for work if their benefits are cut off. Some 29 percent of the households in Harlem receive public assistance.

Although the 200 workers in our study receive only the minimum wage, they are actually the victors in an intense competition to find work in a community with relatively few jobs to offer. At the restaurants where they work, the ratio of applicants to hires is approximately 14 to 1. Among those people who applied but were rejected for fast-food work in early 1993, 73 percent had not found work of any kind a year later, despite considerable effort. Even the youngest job-hunters in our study (16- to 18-year-olds) had applied for four or five positions before they came looking for these fast-food jobs. The oldest applicants (over 25) had applied for an average of seven or eight jobs.

The oversupply of job-seekers causes a creeping credentialism in the ghetto's low-wage service industries. Older workers in their twenties, who are more often high school graduates, now dominate jobs once taken by school dropouts or other young people first starting out. Long-term welfare recipients will have a tough time beating out their competition even for these low-wage jobs. They will be joining an inner-city labor market that is already saturated with better educated and more experienced workers who are preferred by employers.

WINNERS AND LOSERS

We tracked nearly 100 people who applied for these minimum-wage jobs but were turned down, and compared them to the fortunate ones who got jobs. The comparison is instructive. Even in Harlem, African Americans are at a disadvantage in hiring compared to Latinos and others. Employers, including black employers, favor applicants who are not African American. Blacks are not shut out of the low-wage labor market; indeed, they represent about 70 percent of the new hires in these jobs. But they are rejected at a much higher rate than applicants from other ethnic groups with the same educational qualifications.

Employers also seem to favor job applicants who commute from more distant neighborhoods. The rejection rate for local applicants is higher than the rate for similarly educated individuals who live farther away. This pattern holds even for people of the

same race, sex, and age. Other studies in the warehouse and dockyard industries report the same results. These findings suggests that residents of poor neighborhoods such as central Harlem are at a distinct disadvantage in finding minimum-wage jobs near home.

Mothers of young children face particular problems if they can't find jobs close to home. The costs and logistical complexities of commuting (and paying for longer child care hours to accommodate it) are a big burden.

In searching for jobs, "who you know" makes a big difference. Friends and family members who already have jobs help people get work even in the fast-food industry; those isolated from such networks are less likely to get hired. Personal contacts have long been recognized as crucial for getting higher-skilled employment. This research suggests that contacts are important at the bottom of the job ladder, too.

Native-born applicants are at a disadvantage compared to legal immigrants in securing entry-level work. In fact, even though central Harlem residents are nearly all African American, recent immigrants have a higher probability of being hired for Harlem's fast-food jobs than anyone else. Interviews with employers suggest that they believe immigrants are easier to manage in part because they come from countries where \$4.25 an hour represents a king's ransom. Whether or not employers are right about the tractability of immigrants, such attitudes make it harder for the native-born to obtain low-wage jobs.

The people who succeed in getting these minimum-wage jobs are not new to the labor market. More than half of the new hires over the age of 18 found their first jobs when they were younger than 15 years of age. Even the people rejected for the minimum-wage positions had some prior job experience. Half of them also began working before they were 15 years old. Welfare recipients with no prior job experience, or no recent job experience, are going to be at a disadvantage in the competition.

"THEY EXPECT TOO MUCH"

One explanation often advanced for low employment in poor communities is that the poor have unrealistic expectations. In this view, they are reluctant to seek (or take) jobs that fall below a "reservation wage," which is supposedly far above the minimum. We asked job-seekers who were refused these entry-

level jobs what they were hoping for and what wages they would accept. Their desires were modest: \$4.59 per hour on average, which is quite close to the minimum wage. The younger the job-seeker, the lower was the expectation.

These job seekers were willing to accept even more modest wages. On average the lowest they would take was \$4.17 per hour, which is less than the minimum level legally permitted for adult workers. It is striking that many applicants previously had higher salaries; the average wage for the best job they had ever held was \$6.79 per hour. Many of central Harlem's job-hunters are suffering from downward mobility, falling into the minimum-wage market even though they have done better in the past.

Comparing job-seekers to jobholders shows the intensity of employment competition in the inner city, but it doesn't tell us how welfare recipients will fare. What assets do welfare recipients bring to the competition compared to other job-hunters? The news is grim.

Nationally, one-third of the long-term welfare recipients have received high school diplomas. Recently hired fast-food workers in central Harlem have completed high school at a higher rate—54 percent. Almost 40 percent of welfare recipients have not held jobs in the year preceding their enrollment in welfare. Yet even the central Harlem applicants rejected for fast-food jobs have had more job experience. They have held an average of more than three jobs before applying for these positions.

In short, it is simply not the case that anyone who wants a low-wage job can get one. As is true for almost any glutted labor market, there is a queue of applicants, and employers can be fairly choosy. When conservatives point to the success of immigrants as proof that jobs are available for welfare moms, they are ignoring the realities of the inner city. Ethnic minorities of all kinds are already locked into a fierce struggle for scarce opportunities at the bottom.

When they go looking for jobs, welfare recipients go to the back of a long line. Policymakers should neither fool nor comfort themselves with the notion that welfare mothers can simply go out and get jobs. Investment in public employment and tax incentives for private employers will be needed on a massive scale if anything like that rosy scenario is to come about. Even then, the competitive hurdles facing the very poor will be high and many better-qualified people will be out there looking to leap over them. □

HOUSING POLICY'S MOMENT OF TRUTH

BY PETER DREIER AND JOHN ATLAS

At least one million Americans, including an increasing number of children and working adults, are homeless at some point each year. About half of young families can't afford the American dream of homeownership. Yet both the Clinton administration and congressional Republicans favor dismantling long-standing housing programs for the poor, and some in Congress want to eliminate the Department of Housing and Urban Development (HUD) altogether.

The moment of truth for federal housing policy has arrived. Hardly anyone can be found to defend the agency. "Politically, HUD is about as popular as smallpox," reports the *Washington Post*. The department is typically associated with public housing projects, big cities, and the welfare poor, and under Reagan and Bush it became identified with mismanagement and corruption. So conservatives get to look like good-government reformers, even as they throw out the housing baby with the HUD bathwater.

The United States devotes more than \$100 billion a year to housing subsidies, less than one-quarter of that through HUD. The Departments of Agriculture, Health and Human Services (HHS), and Defense provide subsidies as well, but none contributes as much as our phantom housing agency, the Internal Revenue Service, through the home mortgage interest and property tax deductions (see "Where Government Subsidies Go," page 70). Doubtless, much of the \$100 billion in federal subsidies is ill directed. The progressive alternative is not a reflexive defense of existing programs but a reformed housing policy that targets federal support to those who need it, relies less on bureaucratic programs, and emphasizes the role of nonprofit and community organizations in building, owning, and managing housing for poor and working-class families.

TURNING POINTS

Among Western democracies, the U.S. relies most heavily on private market forces to house its population. Government's role dates primarily from two turning points in our history. At the turn of the century, tenement reform laws set the precedent that local government would set standards and regulate housing safety. During the 1930s,

For subscriptions and bulk reprints call 1-800-872-0162.

the public housing programs and banking reforms of the New Deal established the federal role in expanding homeownership and providing subsidies to the poor. The Depression convinced reformers that the private market and philanthropy could not solve the economic and housing problems of the poor. Some of the earlier Progressive Era housing reformers, joined by a younger generation of activists and union leaders, pushed for public housing as well as union-sponsored cooperative housing and new communities guided by cooperative principles.

From the New Deal to the late 1970s, federal policies stabilized the banking industry, giving lenders greater incentives to make long-term loans to homebuyers. Washington also subsidized local public housing authorities and private developers to build low- and moderate-income housing. Every president from Franklin Roosevelt to Jimmy Carter, Republicans and Democrats, increased federal housing assistance.

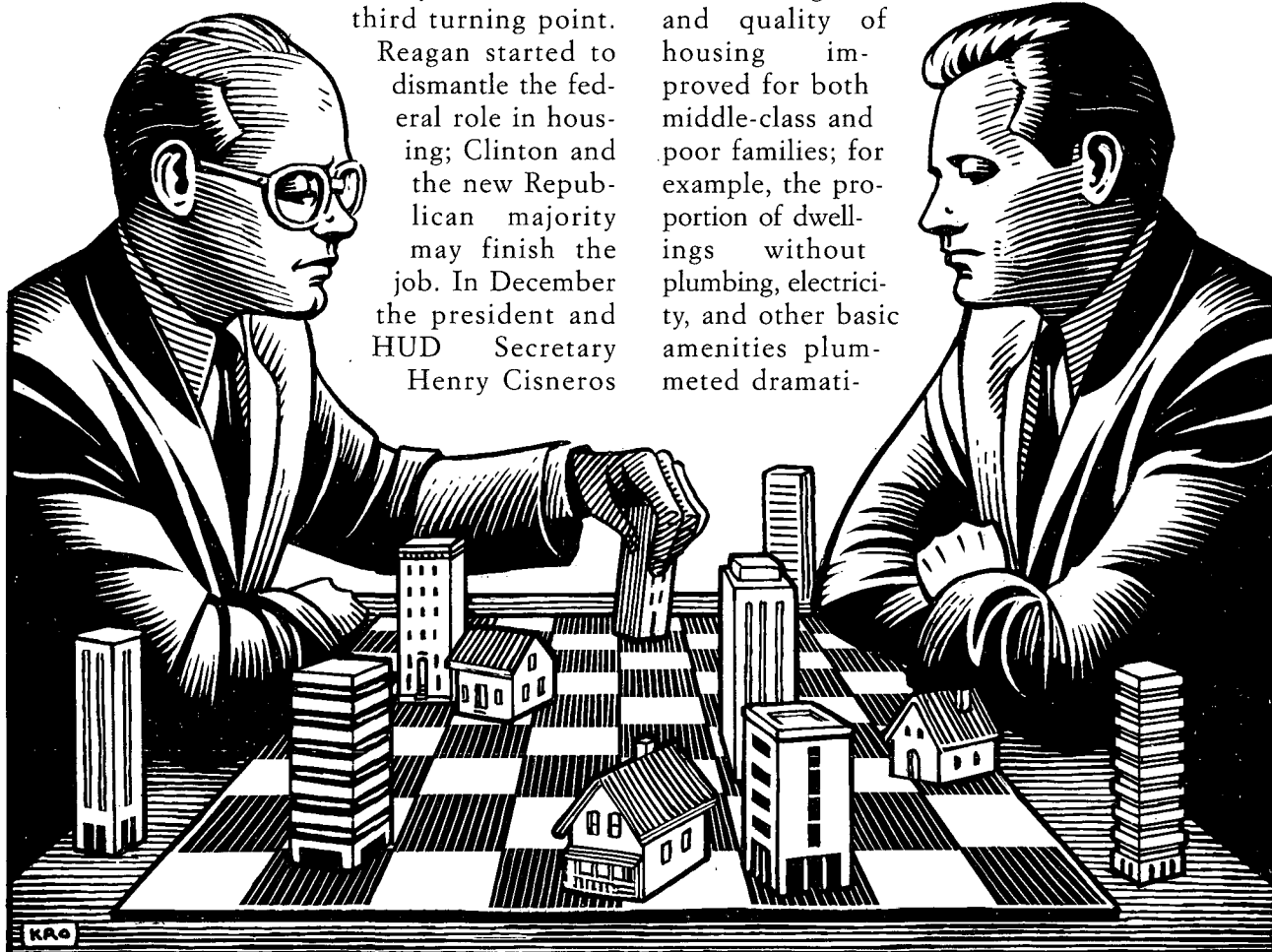
We may now be at a third turning point. Reagan started to dismantle the federal role in housing; Clinton and the new Republican majority may finish the job. In December the president and HUD Secretary Henry Cisneros

unveiled a plan to "reinvent" HUD. The administration's plan would streamline and consolidate HUD's crazy-quilt programs and hand the funds over to cities and states. It also calls for a dramatic cutback in HUD's mission by virtually eliminating funds for existing subsidized housing developments with about three million low-income apartments.

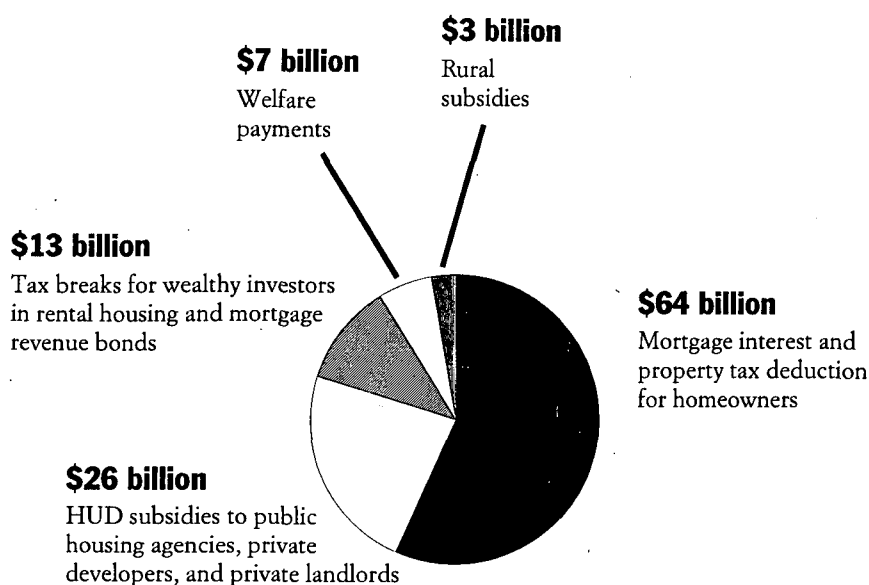
In truth, much of what's under attack should be cut. HUD is too top-heavy and inflexible; its programs are often poorly run. But HUD has also had many success stories that warrant expansion. If housing programs are simply cut rather than transformed, the trends toward increased homelessness and declining homeownership will only get worse.

AMERICA'S HOUSING DECLINE

For thirty years after World War II, Americans made steady progress toward broader homeownership and improved housing. By the 1970s, two out of every three American households owned their own dwelling. The size and quality of housing improved for both middle-class and poor families; for example, the proportion of dwellings without plumbing, electricity, and other basic amenities plummeted dramati-



WHERE GOVERNMENT HOUSING SUBSIDIES GO



Pentagon subsidies to house military personnel, about \$10 billion annually, are not included here.

cally. Many poor people still lived in slums, but the major housing problem confronting both the poor and the middle class became "affordability"—how much of their income they needed to pay to keep a roof over their heads.

Calling for a new approach to housing based on "free and deregulated markets," the Reagan administration slashed the HUD budget from \$30 billion to \$9 billion, deregulated savings and loans, and did little to enforce laws against discrimination in housing and lending. When the press uncovered the HUD scandal in 1989, Congressman Newt Gingrich, the *New Republic*, and others called for abolishing the agency. But the Democratic Congress stymied efforts to cut HUD even further, to sell off more than a handful of public housing projects, and to penalize cities with rent control.

Since the 1980s, America's housing situation has gotten much worse, not only for the poor but also for the middle class. The homeownership rate, which had reached 65.6 percent in 1980 after climbing steadily since the 1940s, fell back for the

first time, to 63.9 percent in 1989. For those aged 30 to 34, the rate dropped from 57.1 percent to 53.2 percent. As a result of both rising rents and declining incomes, nearly one-fifth of all renters devoted more than half of their income to meet housing costs; 43 percent of low-income renter households paid at least half of their income for housing. Measured in 1989 dollars, the median monthly gross rents paid by poor households living in unsubsidized housing jumped from \$258 in 1974 to \$359 in 1991. The number of low-cost apartments has dwindled, much of it lost to urban renewal, condominium conversion, and gentrification. Between 1975 and 1991, the number of unsubsidized low-rent apartments fell from 6 million to 4.4 million, while the number of families in poverty increased significantly.

The homeless are the most tragic victims of these trends. By moderate accounts, the ranks of the homeless have swollen to 600,000 on any given night and 1.2 million over the course of a year. Demand for emergency shelter services has increased by about 20 percent a year during the past decade. Since the early 1980s, the composition of the homeless population has changed. The initial stereotype was an alcoholic or mentally ill middle-aged man or "bag lady"; now the homeless include families, even many with young children. A recent U.S. Conference of Mayors survey found that almost one-quarter of the homeless have jobs.

Racial segregation in housing continues, much of it due to economic factors. Recent studies document, however, that minorities experience discrimination by lenders, landlords, and realtors regardless of income. Poor blacks and to a lesser extent poor Hispanics, but not poor whites, tend to live in

ghettos or barrios with high concentrations of the poor.

HUD AND THE 'HOOD

But don't we have HUD to help house the poor? If these problems are so bad, say conservatives, clearly the agency has failed.

Here are the basic facts about HUD: Its current budget of \$25.6 billion, most of which is targeted to the poor, amounts to 1.7 percent of the federal budget. With these funds, less than one-third of the nation's poor renters receive any federal housing subsidy. Of 13.8 million low-income renter households eligible for federal housing assistance, almost 10 million poor households receive no help (see "Who Gets Housing Aid," at right).

Most HUD-subsidized projects are well run, but quite a few have been mismanaged by incompetent public housing agencies and greedy slum landlords who took the subsidies but failed to maintain their properties. Over the years, HUD has used little leverage to make these agencies and landlords live up to their obligations. In some cases, they milked these properties for their tax breaks and then walked away from the buildings entirely, leaving HUD to foreclose and become ghetto slumlord.

Moreover, most projects were located in segregated neighborhoods. Local housing agencies and landlords argue, with some justification, that federal rules requiring them to house only the very poor are responsible for some of the problems. Many HUD-subsidized projects have, in fact, become ghettos filled with troubled families, some of whom engage in crime, join gangs, participate in the underground drug economy, and live on welfare and food stamps. These "distressed" projects (as HUD calls them) cast a giant shadow on the entire enterprise, stigmatizing "government housing" as housing of last resort. [See John Atlas and Peter Dreier, "From 'Projects' to Communities: How to Redeem Public Housing," *TAP*, No. 10, Summer 1992.]

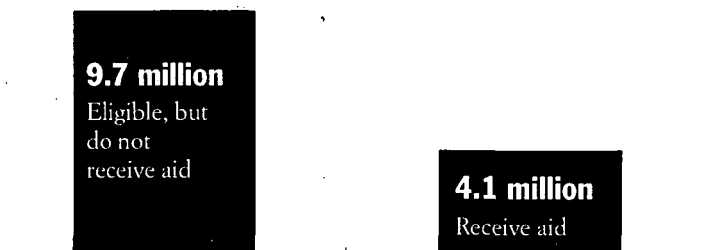
Over the years, people from across the political

spectrum have urged HUD to either fix up troubled projects or tear them down. Conservatives had opposed fixing them up on the ground that it would simply be pouring good money after bad. As a result, modernization of HUD-subsided projects has proceeded slowly, with some dramatic successes but insufficient funds to change the overall picture.

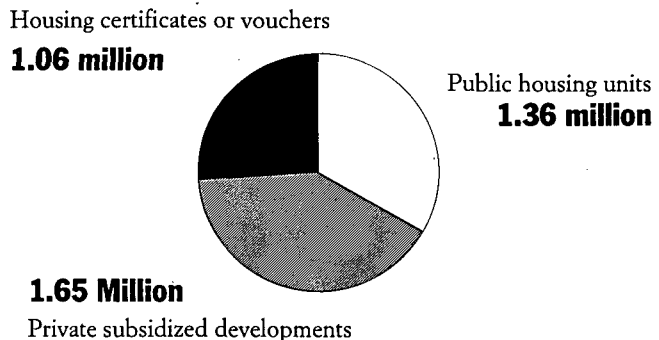
Liberals have generally opposed tearing down even the worst projects. They fought to force HUD and local housing agencies to fix them up, but they have also argued that with the scarcity of low-cost housing, living in even the most distressed projects was a better alternative than living on the streets. Liberals also fought to require public housing

WHO GETS HOUSING AID

The majority of eligible low-income households do not receive any help:



How those who receive help get it:



agencies and private landlords with HUD grants to give priority to the poorest tenants and used the courts to expand renters' rights, making it difficult

to evict difficult tenants.

As a congressman and as Bush's HUD Secretary, Jack Kemp tried to appeal to both constituencies. "Empower" the poor, he said, by helping the residents of HUD-subsidized projects become managers and homeowners. Kemp's idea sounded good. After all, it had worked in England, where Margaret Thatcher gained blue-collar support for selling off public housing to the tenants at reduced prices. But the plan didn't make much sense on this side of the Atlantic. Many middle-class families lived in England's public housing, which was in sound physical condition. In the U.S., the restriction of subsidized housing to the very poor now means that its tenants cannot pay for routine operating expenses, much less the cost of major repairs required in many older and run-down buildings. Despite warnings from HUD staff, Kemp plunged ahead with this Homeownership Opportunities for People Everywhere (HOPE) program but soon discovered that few tenants wanted to buy their buildings under those conditions. Only a few thousand units have been sold.

THE CLINTON PLAN TO REINVENT HUD

Housing advocates had high hopes for new HUD Secretary Cisneros, former mayor of San Antonio and a seasoned politician. His subcabinet appointments included many of the nation's leading urban policy scholars and activists, who had long been waiting for a chance to put their ideas into action. But faced with a huge budget deficit and a Congress unwilling to pass even a modest stimulus package, the Clinton administration faced severe constraints. Almost the entire HUD budget has been committed to existing contracts for subsidized housing. The Democratic Congress also stymied several of Cisneros' innovative initiatives, frustrating his attempts to reinvigorate HUD after more than a decade of mismanagement and downsizing.

Last December, faced with the possibility that his entire department would be killed, Cisneros presented Clinton with a plan to "reinvent" HUD. Clinton announced it the day after his "middle-class bill of rights" speech. The plan calls for HUD

to consolidate 60 narrow programs into three broad ones. Instead of having many small housing and community development programs targeted to specific groups and micromanaging how these funds are spent, HUD would send funds to the states and cities and let them decide how to use them, with only a few strings attached.

The most dramatic change is the eventual elimination of almost all federally assisted housing projects and their replacement with housing vouchers. These projects include the 1.3 million units of public housing and the roughly 1.7 million units of subsidized projects owned by private landlords and developers and insured by FHA. Currently, tenants in both public and private subsidized projects pay 30 per-

cent of their income for rent, while HUD pays the rest and often subsidizes renovations.

The plan is basically to privatize almost the entire inventory of HUD-assisted projects—more than three million units in all. HUD will provide local housing authorities and private developers with funds to renovate their projects, though it has no estimates about how much the renovations will cost. The department will also restructure its FHA-insured mortgages on private apartment projects to lower rents. After the renovations, the public and private owners will be on their own, required to compete in the private housing market. The three million families and elderly tenants who now live in these buildings will receive vouchers to help them pay rents in private apartments. If the landlord wants to keep them and the vouchers enable them to cover their rent, they can stay where they are. Or they can use their vouchers to find apartments anywhere they want, even in the suburbs.

Under this plan, HUD will no longer have to monitor thousands of public housing agencies and landlords to make sure they comply with HUD's income guidelines, building maintenance standards, and other regulations—a task federal officials were never good at, anyway. Instead, HUD's job will be to provide poor tenants with housing vouchers and wish them luck finding apartments.

Simply giving low-income families a housing voucher, however, won't ensure that they can use it. Since 1974, we've had experience with housing-

Simply giving
low-income
families a
housing
voucher won't
ensure that
they can use it.

voucher programs; about one million families now have HUD vouchers of some kind. The lesson is that vouchers only work when there are enough apartments. During the mid-1980s, for example, half of all tenants with vouchers in Boston could not find apartments because of the tight market and high rents. Even in markets with many vacancies, racial minorities have trouble finding apartments with vouchers. Landlords discriminate. Groceries have to accept food stamps; landlords can refuse families with vouchers. Large families and the elderly also have trouble finding apartments they can afford. HUD typically requires large apartments and some handicapped-accessible apartments in subsidized projects. Private developers are unlikely to build apartments for large families, even if they have vouchers.

Suburban "snob zoning," which often excludes apartment building (and the poor and minorities), compounds the housing shortage. Unless the federal government uses carrots and sticks to limit snob zoning and vigorously enforces laws against discrimination, these problems won't go away. If HUD isn't going to do this, who is?

Housing activists correctly worry that, under the Clinton-Cisneros plan, the three million families now living in subsidized projects will get vouchers that will be good only for three years. They worry that it will look like Clinton's welfare plan—three years and you're out. Will HUD renew them? Tenants with temporary vouchers aren't much of a lobby.

At various times since the November elections, Republican leaders, including Speaker Newt Gingrich and Majority Leader Bob Dole, have urged eliminating HUD. "You could abolish HUD tomorrow morning," Gingrich said, "and improve life in most of America." Senator Launch Faircloth of North Carolina, the new chairman of the HUD oversight subcommittee, announced, "I think we need to put this department to rest." In the end, neither the House nor Senate Republican budgets eliminated HUD entirely. But in May, the Congress slashed \$6.3 billion from the current (1995) HUD budget, or about one-fourth of the total. Funds for existing public housing projects and subsidized developments were expected to take the brunt of the cuts. The Republicans were also planning to cut about one-fourth of the budget for the seven-year period

beginning in 1996. Some view this as the first phase in dismantling the agency. Gingrich has been candid about the reasons for HUD's vulnerability. Its "weak political constituency," he told the *Washington Post*, "makes it a prime candidate for cuts."

This wasn't always the case. After World War II, federal housing policy had a broad political constituency: young families who wanted to buy homes, developers who wanted to build them, brokers and lenders who wanted to help them buy, and labor unions whose members wanted to buy homes and construct them. Federal policy helped the blue-collar working class achieve the middle-class American dream of homeownership. Public housing for the poor was accepted on the premise that it would serve as a stepping stone to upward mobility.

HUD's current constituency, however, consists primarily of those who have a stake in housing the poor: big-city mayors and local housing bureaucrats, private developers and speculators, and poor people and their advocates (often identified as "do-gooders"). Many Americans now believe that federal low-income housing programs reward a combination of government bureaucrats, politically connected developers, and people who engage in antisocial or self-destructive behavior.

A PROGRESSIVE HOUSING PLAN

Can the political constituency for federal housing policy be expanded? Is there an alternative to both the indefensible status quo and the know-nothing call to dismantle HUD? A progressive housing policy should accomplish three things.

First, it should help house the poor and almost-poor. Some form of government support is necessary to make housing affordable for the poor as well as for growing segments of the troubled middle class.

Second, it should help rebuild the social and economic fabric of troubled neighborhoods overwhelmed by unemployment, concentrated poverty, crime, drugs, abandoned buildings, and hopelessness. Expanding self-help should be a priority: Residents especially need opportunities to mobilize on their own behalf.

Third, it should stimulate homebuilding and homebuying, particularly for the middle class, a strategy whose multiplier effects are well known. In

doing so, it should target government help to those who could not otherwise achieve the American Dream.

In the plan proposed here, the HUD bureaucracy would be cut by 75 percent within ten years, and it would be out of the income assistance business; instead, HHS would administer housing vouchers for the poor. HUD would not run our proposed progressive tax credit for homeownership. It would be responsible primarily for upgrading and gradually selling off the inventory of subsidized projects to residents and community groups. Its major ongoing responsibilities would be overseeing new production and rehabilitation of housing by nonprofits and monitoring discrimination by lenders, landlords, and realtors.

For the same \$113 billion we spend now, but spending it more wisely and efficiently, we can solve America's housing crisis. Here's how.

GRADUATED HOMEOWNER TAX CREDIT: \$50 BILLION

Most young families starting out today are shut out of the homebuying market. To expand homeownership for the middle class, we should scrap the homeowner deduction entirely and replace it with a refundable progressive homeowner tax credit.

Currently, all mortgage debt and local property taxes are fully deductible on federal tax returns. These deductions, which cost the federal government \$64 billion last year, primarily benefit the affluent. Those with the highest incomes and the most expensive homes (including second homes) get the largest subsidy. Almost half (44 percent) of the mortgage subsidy, which cost \$51 billion, goes to the 5.2 percent of taxpayers who have incomes above \$100,000. Half of all homeowners do not claim deductions at all. Tenants, of course, don't even qualify. As a result, the average break for households with incomes above \$200,000 is worth \$8,457, while the break averages just \$486 for the

2.8 percent of households with incomes below \$30,000 that receive any deduction at all. Contrary to the rhetoric of the real estate industry, these deductions aren't the salvation of the middle class. Only one-fifth of the 28 million households with incomes between \$30,000 and \$50,000 receive any homeowner subsidy.

The new progressive tax credit we are proposing would be available to all families each year, including those moderate-income households that do not itemize their deductions. Tying the credit progressively to income would limit subsidies for the wealthy but preserve them for the middle class. It

would also add a large number of families who currently do not benefit. Its mechanics would be similar to the earned income tax credit for low-wage earners but reach a much broader income range. The credit could be adjusted for regional housing costs in order to avoid penalizing homebuyers and homeowners in such high-cost areas as California.

A tax credit would be much more efficient as well as fairer than the current approach. By turning the mortgage interest deduction into a progressive tax credit, the same \$50 billion would help many more families become and remain homeowners. The wealthy would continue to purchase homes with or without a tax subsidy. Because housing demand is more elastic at low and middle incomes, a \$50 billion annual homeowner tax credit could make the difference between renting and owning for millions of working fami-

lies. And it involves no bureaucracy.

The Federal Housing Administration (FHA), whether a part of HUD or a semi-public agency, would continue to provide mortgage insurance for working- and middle-class homeowners to help lower the required downpayments and closing fees.

The progressive tax credit could eventually

For the same \$113 billion we spend now, but spending it more wisely and efficiently, we can solve America's housing crisis.



gain the support of a broad constituency, including the housing industry lobby. By increasing the demand for homes, it would increase homeowner-ship, catalyze homebuilding (helping builders, brokers, and lenders), generate jobs, stimulate economic growth, and add to local tax bases. The housing industry has vigorously resisted any reform of the homeowner subsidy, but with the deduction under assault across the political spectrum, the industry may be able to find common cause with housing activists in supporting progressive reform.

HOUSING VOUCHERS: \$50 BILLION

The Clinton-Cisneros plan proposes turning subsidized projects into private market-rate apartment buildings, then giving tenants vouchers. Like food stamps, housing vouchers are income supplements for the poor, but they have not been entitlements. A housing voucher for all eligible low-income households would cost about \$50 billion a year. Although most poor families will use vouchers to rent apartments, the vouchers should also be usable to purchase a home.

The voucher program should be available to the working poor as well as the welfare poor and be administered not by HUD but by HHS. It would help guarantee that the nation's poor children would at least have a roof over their heads and that families would not have to scrimp on food or heat in order to pay the rent. Alternatively, the poor could get a housing tax credit.

COMMUNITY DEVELOPERS: \$5 BILLION

During the past decade, nonprofit community-based organizations have demonstrated their growing capacity to build and rehabilitate housing for families that private developers and landlords don't serve. HUD should target about \$5 billion a year for housing development and repair sponsored by community-based groups. That translates into about 200,000 to 300,000 new homes and apartments each year.

Without subsidies, it isn't profitable to build housing for the poor. When HUD's production subsidies dried up in the 1980s, private developers walked away from inner cities. Into the vacuum stepped a new generation of housing reformers with deep roots in these neighborhoods. Perhaps the only silver lining in the Reagan and Bush hous-

ing cuts was the emergence of nonprofit housing developers. Today there are at least 3,000 such groups. Rooted in their communities, they have been sponsored by neighborhood associations, churches, social agencies, tenant groups, and unions, and have found increasing support from foundations, local governments, and business partnerships.

The first generation of community developers in the 1960s and '70s included many naive, even incompetent reformers. The new generation is more savvy and entrepreneurial. These groups have already overcome enormous challenges and obstacles. They operate in the most troubled neighborhoods, working against overwhelming odds. And they do so with few resources and considerable opposition from the powers-that-be. Still, they have accomplished a great deal.

In most other industrial nations, the "social sector" plays a key role in the provision of human services and housing. The community developers are the kind of "intermediary" institutions that conservatives and liberals both extol. [See Peter Dreier and J. David Hulchanski, "Affordable Housing: Lessons from Canada," *TAP*, No. 1, Spring 1990.]

In the past few years, an increasing proportion of the major federal programs has been allocated to nonprofit housing groups. HUD should make the nonprofit sector the major delivery system for the creation of affordable housing. Whether its funds go to states or cities, HUD needs to attach some important strings:

- The nonprofit sponsors should either create limited-equity resident-owned cooperative housing developments or, if rental, provide residents with a strong voice in management.

- Whether new construction or rehabilitation, all HUD-assisted developments should be mixed-income. Current housing policy makes it almost impossible to create mixed-income developments or to turn existing low-income projects into more livable mixed-income developments. Canada provides an excellent model. HUD should limit the percentage of poor persons in each development to no more than one-half, preferably less. Experience indicates that nonprofit groups should be able to compete effectively with for-profit landlords for both middle-class and low-income tenants. For example, at Boston's Leighton Court development,

built in the late 1980s by a nonprofit group, one-quarter of the 269 units are targeted for market-rate renters, one-half for moderate-income tenants, and one-quarter for the very poor. Well designed and well managed, the development has no difficulty filling its units.

- HUD subsidies should be targeted only for acquisition of land and buildings and for up-front development costs. The nonprofits should have to compete to attract low-income tenants with vouchers.

- HUD funds for new housing construction should not be limited to inner-city neighborhoods. Some money should be used to help revitalize troubled blue-collar suburbs as well. We need to build political alliances between central cities and inner-ring suburbs, many of which have become "urbanized" and have similar problems—poverty, fiscal troubles, physical decay, job loss, homelessness, and crime. For example, in 1990, 42.4 percent of the poverty population lived in central cities, 30.5 percent lived in suburbs, and 27 percent lived in non-metropolitan areas.

"COOPERATIZATION" OF HOUSING PROJECTS: \$7 BILLION

The Clinton plan would privatize the nation's three million units of HUD-subsidized housing by eliminating all operating subsidies and making these complexes compete in the private rental market. This is a recipe for disaster. Most subsidized projects are in distressed urban neighborhoods and suffer from years of deferred maintenance. Many were poorly constructed and quite a few are ugly warehouses for the poor. If HUD withdraws its insurance and project-based subsidies, some private owners will simply walk away from their projects. Privatizing these projects will work only if they are fixed up and redesigned so that people with choices will want to live there.

HUD projects restricted to low-income residents concentrate and segregate the poor in ghettos. To turn these projects into mixed-income developments, owned by public housing authorities, nonprofit groups, and resident cooperatives, HUD should adopt a two-part strategy.

First, it should continue to provide operating subsidies to the successful, well-managed public housing agencies, which account for at least one-half of the current units. HUD should follow some simple principles: If it ain't broke, don't fix it. Loosen the rules to allow working-class families to live there and give resident organizations the authority to set standards for eviction. Link residents to job training, child care, and other services. The operating subsidies and social services for half the inventory will come to about \$3 billion.

Second, HUD should turn over troubled public housing developments and privately owned subsidized projects to nonprofit groups and resident-owned cooperatives. This will require some continuing HUD oversight, but with a ten-year goal of "cooperatizing," not just "privatizing," these developments. In the past decade, HUD has had some success with "buyouts" of subsidized projects by resident organizations and nonprofit community groups. But it takes time to organize and educate the tenants, who should begin with a goal of improving the developments. Resident groups should get technical and financial assistance to organize. ACORN and other community groups have succeeded in such efforts.

Unlike Kemp's HOPE program, this doesn't

HUD should turn over troubled public housing developments and privately owned subsidized projects to nonprofit groups and resident-owned cooperatives.

mean simply turning over the keys to existing projects to the tenants or nonprofit developers. It requires HUD to provide funds to fix them up.

About \$40 billion is needed to completely modernize, redesign, and repair the inventory of HUD-assisted projects. Some developments should be torn down, others reconfigured, and still others brought up to basic standards. Over a ten-year period, that's \$4 billion a year.

COMMUNITY EMPOWERMENT: \$1 BILLION

Community empowerment is consistent with the aims of conservatives and liberals alike to use voluntary intermediary community institutions to help rebuild the social fabric of troubled neighborhoods. Tenants who wish to organize to improve

living and safety conditions in their communities should have the clear right to do so. The federal government should enact legislation to provide residents in public housing developments, HUD-assisted developments, and private housing with a vehicle similar to the National Labor Relations Act—in effect, a National Tenant-Landlord Relations Act.

To become recognized as the legitimate voice of the residents, a tenants group would have to win a majority of the votes of the residents in a development. An election would be held by secret ballot. HUD or a third party such as the American Arbitration Association or the League of Women Voters would supervise the elections. The law could exempt owners and tenants in buildings or complexes with fewer than, say, 20 apartments.

Once a tenant organization wins a supervised election, it would become the recognized group vis-à-vis the local housing authority or the owner of the development. Both the tenant organization and the owner would have certain rights and responsibilities in developing solutions, including resident management and ownership. (Some elements of this process are already in place in the new regulations regarding resident councils and tenant management corporations in subsidized developments.) Experience in public housing shows, for example, that when tenant groups have responsibility for developing standards for eviction and tenant selection, they are often more effective than the housing authority.

In public and subsidized housing developments, tenant associations that win elections and become the official voice of the residents in the development should receive funding from HUD on a per capita or per unit basis. This funding would be used to hire staff and consultants, buy equipment, rent office space, and operate the tenant association. HUD could encourage tenant associations to raise additional funds through grassroots efforts by providing matching funds. In private apartment buildings, tenants would have to raise their own funds to maintain the organization.

Some HUD money should also go to encourage grassroots community organizing around such issues as crime watches, code enforcement, tenants rights, and especially bank and insurance industry redlining. Much of the success of the nonprofit sector has been due to banks' willingness to make

mortgage and construction loans in marginal neighborhoods to comply with the Community Reinvestment Act (CRA). Community reinvestment has been one of the real success stories of the past decade, thanks to such grassroots groups as ACORN. Unlike his predecessors, Clinton has been a big fan of antiredlining strategies, despite opposition from the banking industry, the Federal Reserve, and (with some exceptions) his own bank regulators. HUD has several new programs to encourage grassroots enforcement of the CRA and other fair-lending laws. What will happen to the federal government's antiredlining enforcement efforts? These need to be expanded because the bank regulators don't want to do it.

BROADENING THE CONSTITUENCY

That's the \$113 billion plan:

- \$50 billion a year in tax credits to help working-class and middle-class families become (or remain) homeowners;
- \$50 billion a year to provide vouchers (or tax credits) for every poor person;
- \$5 billion dollars a year to help community-based developers build and repair mixed-income developments in troubled neighborhoods;
- \$7 billion a year (for ten years only) to preserve well-run public housing and upgrade troubled HUD-subsidized housing projects so they can be turned over to resident groups and nonprofit groups to compete in the marketplace;
- \$1 billion a year to empower residents in rental housing complexes and poor neighborhoods.

This approach would help rebuild the political constituency for federal housing policy. The housing agenda has always made the most headway when the concerns of the poor and the middle class were joined. In the Progressive Era, that meant improving health standards for tenements for immigrant workers in the teeming slums as well as building apartments for the middle class. In the Depression and the postwar years, it meant building subsidized housing for the working class and shoring up homeownership for the middle class. Today it means rebuilding communities, not just housing, and restoring the dream of a home of their own for millions of Americans who can no longer afford one.□

PARALYSIS BY ANALYSIS

HOW CONSERVATIVES PLAN TO KILL POPULAR REGULATION

BY DAVID C. VLADECK AND THOMAS O. MCGARITY

Among Newt Gingrich's great contributions to double-speak is the "Jobs Creation and Wage Enhancement Act" (H.R. 9), one of the least appreciated and most extreme elements of the Contract with America. The measure has nothing to do with jobs or wages. It is, rather, a cynical effort to hamstring federal health, safety, and environmental regulation by adding a series of bureaucratic hurdles and new opportunities for industry-inspired litigation. Unless the public awakens to the dangers posed by the Republicans' approach and the president vetoes the legislation likely to emerge from this Congress, the achievements of decades of improvement in the environment and health and safety standards will be severely undermined.

The Republican sponsors argue that big government mindlessly churns out regulations harmful to the economy and business and that the public is tired of the red tape. Americans may dislike regulation in the abstract, but we value clean air, pure water, and other benefits of health and safety regulation that private markets ignore. Ironically, the Republicans' approach is a tacit admission that most regulation is popular. They know the public would not stand for explicitly dismantling the Clean Air Act, the Safe Drinking Water Act, or the Food, Drug and Cosmetic Act. Instead, they are trying to cripple these laws by enacting procedural reforms that sound neutral but make effective regulation impossible.

The House passed H.R. 9 in March, while the Senate was preparing to consider two rival counterparts—a companion bill by Majority Leader Robert Dole that goes even further than H.R. 9, and a more moderate reform bill by Senator William Roth of Delaware. Even the Roth bill would seriously and needlessly

damage a good deal of regulation that most Americans support. At the heart of all three measures is more red tape. Since the Carter administration, the Office of Management and Budget (OMB) has coordinated policy among the regulatory agencies. President Reagan greatly centralized control in OMB and issued an executive order (Executive Order 12,291) requiring elaborate risk assessments before agencies could regulate. These analyses were so expensive and time-consuming that agencies often failed to meet the analytical perfection required by the order. That in turn resulted in acrimonious fights between the regulatory agencies and the economists in OMB who frequently held up important regulations for months or even years because of alleged analytical flaws.

For subscriptions and bulk reprints call 1-800-872-0162

President Clinton's counterpart order (Executive Order 12,866) eliminated much of the red tape and gave the agencies more flexibility, while preserving OMB coordination. At present, agencies are required to prepare "regulatory impact analyses" (RIAs) describing costs and benefits for "major" rules—ordinarily defined as those likely to have an annual impact of more than \$100 million. In the course of carrying out their missions, agencies already do a great deal of cost-benefit analysis and risk assessment. For example, the Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA) typically prepare risk assessments in regulating toxic substances because there is generally insufficient direct evidence from human studies that a substance poses a precise risk at a given level of exposure. Risk assessments take the available animal (and occasionally human) evidence and, using complex mathematical models, extrapolate the risk to humans at a range of potential exposure levels. Because of the huge uncertainties inherent in making such extrapolations, agencies are wary of relying exclusively on risk assessments. At best, risk assessment can provide useful information, to be factored together with other considerations, in setting standards. And while agencies often review costs and benefits to ensure that their rules are rational and cost-effective, they are generally not required to prepare an extensive quantitative cost-benefit analysis for every rule they promulgate. Nor must they slavishly follow the dictates of the cost-benefit analysis in choosing among regulatory options.

Under the Gingrich bill, risk assessments and cost-benefit analyses would become virtually universal and, instead of serving as a tool, would become a straitjacket. The drafters of these provisions broadly modeled them on the Reagan executive order—a proven strategy for throwing sand in the regulatory gears. Both the House bill and the Dole bill would widen the definition of "major rule." Under the House bill, rules that have an impact of more than \$25 million on the economy would be subject to risk assessment requirements. Under all three bills, rules having an

impact of more than \$50 million would require a full-fledged cost-benefit analysis. Agencies would also have to consider the indirect economic effects of the rule, which alone can double or triple the cost. As a result, even exceedingly modest rules will be considered "major." Agencies such as the EPA estimate that they will have to prepare risk assessments and cost-benefit analyses for virtually every rule of any importance.

It is ironic that a party sworn to make government more efficient would add new layers of red tape. For example, in the case of the Food and Drug Administration (FDA), risks are generally well known by the time the agency issues a regulation. Consider the FDA's proposal to regulate children's vitamins to prevent iron poisoning in children. No one quarrels with the findings of the Centers for Disease Control that more than 100,000 children have suffered iron poisoning and that more than 30 have died in recent years, often

because kids mistake children's vitamins for candy. The FDA has proposed to limit high-potency iron pills to childproof containers and to require warning labels that inform parents of the risk of overdose from iron. In fulfilling the proposed risk assessment requirement, precisely what risk would the FDA be assessing? The risk of consuming too much iron? Or the effect that iron has on children? Or something else? The bills provide no answers.

But the bills do prescribe, in microscopic detail, how an agency must go about performing a risk assessment—apparently under the theory that one size fits all. They would make it impossible for differ-

ent agencies to take different approaches to risk assessment. For example, EPA and OSHA routinely perform extensive risk analyses before regulating carcinogens. Because the groups they are charged with protecting vary so widely, they often use different methods of risk assessments. EPA must worry about the effects of exposure to toxic substances over the course of a lifetime on vulnerable sub-populations, including children, the elderly, and people with weakened immune systems such as AIDS patients. OSHA, on the other hand, is

Conservatives are trying to cripple consumer and environmental protections by passing procedural reforms that sound neutral but make effective regulation impossible.

concerned by and large with healthy adults who are exposed intermittently, often to high-dose levels. To suggest that all agencies should use precisely the same risk assessment techniques is to ignore the agencies' profoundly different missions.

Preparing a risk assessment capable of meeting the bill's ambitious specifications will divert the agency's money and scientific staff time. For a known hazard like iron, a detailed assessment will provide little new information to the regulators, the regulated entities, or the general public. Indeed, for agencies like the FDA, which generally regulates the risks of products whose effects are well known, this will be pure waste.

BUILDING IN BIAS

Both the House bill and the Dole bill provide, in effect, that a regulation's benefits must exceed its costs. The House bill would supersede the agency's own primary statute, if the statute failed to mandate a cost-benefit test. This cost-benefit approach sounds innocent enough, but in practice it would cripple health, safety, and environmental regulation.

For one thing, Congress has deliberately legislated some policy goals, such as OSHA's general requirement that employers provide a safe workplace, that explicitly reject cost-benefit tests—and with good reason. When cost-benefit analysis is applied to workplace safety, it puts workers in the position of bidding their wages against their health, and it allows industry to ignore measures that can enhance health and safety at moderate cost. Certain highly toxic substances have been banned outright, rather than having been subjected to economic analyses of their benefit versus their harm.

The costs of environmental and workplace hazards are often concentrated on vulnerable populations. It may make better policy sense to prohibit some hazards outright. The entire approach of cost-benefit analysis is inherently biased against collective solutions to social problems. While the costs of regulation can generally be quantified (although often overestimated) since they are often capital costs (such as new pollution control equipment), the benefits of regulation are far harder to quantify. To make matters worse, although compli-

ance costs are generally expended promptly, the benefits of health and environmental regulation are spread over many years. Cost-benefit analysis requires the agency to reduce these future benefits to "present value." At the OMB-required discount rate of 10 percent, a dollar's worth of benefits 50 years from now is worth less than a penny today. This means that the benefits of a regulation today that would prevent catastrophic loss in 50 years are virtually certain to be outweighed by even modest present costs. For example, the Nuclear Regulatory Commission is responsible for regulating the storage of highly radioactive nuclear waste. Suppose the NRC had to approve containment systems designed to store radioactive wastes for hundreds of years. The costs would doubtless be high. But the benefits of regulation would be substantial as well, since the health consequences of a breach would be devastating. Yet, because of discounting, the benefits virtually disappear in the cost-benefit calculus, and the agency would not be able to justify protections the public overwhelmingly wants.

Reliable data about the costs of compliance are also hard to come by. Agencies are largely dependent on regulated industries for estimates of compliance costs. But these estimates are notoriously overstated, and, even when submitted in good faith, they cannot account for the often unanticipated technological advances that frequently reduce the actual compliance costs significantly. In several well-known cases, such as the cost of complying with the standards on cotton dust or polyvinyl chloride, the actual cost of compliance turned out to be far below industry projections. For instance, before OSHA imposed a polyvinyl chloride standard, an industry study claimed it would close the nation's entire polyvinyl chloride and vinyl chloride industries, with ripple effects ultimately costing more than 1 million jobs. A retrospective study, however, revealed that the actual financial cost of complying with the standard was only about 7 percent of what industry sources had predicted and that the industry was competitively far stronger afterward than before.

By its very logic, the cost-benefit view of regulation tends to understate benefits. Enormous eco-

The
conservative
proposals
pervert an
honorable
scientific
institution—
peer review.

conomic benefits flow from health and safety regulation. Countless deaths and injuries have been avoided by airbags, drug approval, and food safety laws. Dramatic improvements in the quality of the nation's lakes and rivers resulting from our environmental laws have greatly benefited the fishing and tourist industries. Today's automobiles pollute less and are safer to drive than their forerunners of the 1960s. Regulations often indirectly foster economic growth by forcing manufacturers to modernize their facilities, which in turn stimulates innovation and enhances productivity, as illustrated by America's plastics, textile, and pollution-control industries. Hard data on the benefits of safety and environmental rules, however, are not easy to obtain. For example, many of the more than 100,000 children poisoned by iron sustained significant, long-term injuries, such as damage to the walls of the digestive tract. But we usually don't have exact numbers on the injuries that a rule might avert and on such benefits as reductions in health expenditures and the pain and suffering of the children and distress of their parents. Suffering is real, but it defies easy quantification. EPA Administrator Carol Browner poignantly illustrated her objections to the use of cost-benefit analysis as a decisional tool by asking: "How should I value the loss of IQ points by children exposed to lead?"

Economic analysis tends to ignore such "soft" benefits as the joy of experiencing a wilderness or the satisfaction of knowing that humpback whales still exist somewhere in the deep. As former EPA Administrator Douglas Costle observes, "That which can be measured tends to receive more weight than less tangible, though perhaps more important effects which cannot be quantified."

In short, this little-noticed amendment to a procedural statute would seriously weaken the protections ostensibly provided in dozens of health and safety laws. These include the Occupational Safety and Health Act, which sets high standards for workplace safety; the National Highway Traffic Safety Act, which sets strict safety standards for cars and trucks; and the Clean Air and Water Acts, two of our most important environmental laws. The bills would repeal another key statute, the Delaney Clause, which prevents the introduction of carcinogens into our food supply. The bills would have an especially dramatic impact on environmental laws that are aimed at inducing companies to reduce pol-

lution through the best available control technologies. Given the inherent bias of cost-benefit analysis against health and environmental protection, an agency will nearly always reach the cost-benefit limit long before it has required the best that modern technology has to offer.

REVIEWING AND RE-REVIEWING

All three bills pervert an honorable scientific institution—peer review. True peer review is professional review by disinterested parties. Under the bills, regulatory agencies would be required to submit both risk assessments and cost-benefit analyses to peer review panels that could be composed principally of industry scientists. Even a direct conflict of interest is not grounds for disqualification; panelists need only disclose their financial ties to industry.

Since public interest groups lack the resources to supply scientists for all such panels, the new peer review process will tend to bias agency decisionmaking in favor of the industry point of view. The process guarantees industry representatives an early opportunity to attack a proposed new rule's scientific and economic underpinnings. Even if it works smoothly, the reviews will delay rule-making and drain away scarce agency resources.

The Dole and Roth bills further require each agency to review all of its existing major rules under the cost-benefit criteria. This requirement will channel billions of dollars in agency resources and thousands of hours of professional staff time into a needless exercise in reinventing the wheel. Under current law, any affected person may petition an agency to repeal or amend a rule, and agencies frequently receive and respond to such petitions. If the agency unreasonably delays in responding to the petition, the petitioner may go to court to speed up the agency. But the Dole and Roth bills require the agencies to revisit all major rules, whether or not anyone is dissatisfied.

Nearly all of the major rules that have been promulgated during the last twenty years have been the subject of a detailed cost-benefit analysis in a regulatory impact analysis. While agencies should certainly examine the costs and benefits of past regulations on a selective basis, this universal requirement is a recipe for a colossal waste of resources. This may be exactly what the bills' proponents have in mind. If the agencies' resources are tied up in reevaluations of existing rules, they

will not be able to respond as effectively to new threats to health or the environment.

Serious students of regulation have concluded that during the last two decades the rule-making process has become ossified with new procedural and analytical requirements. From an efficient tool for making and implementing government policy, informal rule-making has evolved into a plodding, document-intensive caricature of its former self. The even more meticulous and burdensome requirements of the regulatory reform bills will bring the process to a complete halt.

HANDCUFFING THE COPS

Under current law, agency rules can be challenged in court only when they are final. Agency action generally may be set aside only if it is "arbitrary or capricious." The proposed bills stand current law on its head by providing new opportunities for judicial challenge that all but guarantee that new environmental and health and safety standards will be tied up in court for years. Most disturbing is the potential of the proposal to encourage litigation over the various analytical documents that will be required. Under the House bill anyone subject to a rule will also be allowed to petition courts to review determinations that the rule is "major" as well as risk assessments, cost-benefit analyses, and RIAs. Never before have RIAs been subject to judicial challenge; nor have litigants been able to challenge risk assessments and cost-benefit analyses directly in court.

A single error in any of these highly technical analyses could provide the basis for setting aside the rule—even if the rule is critically important and satisfies the overall standard of rationality. The burden on agencies will be intolerably high. They will have to produce multiple error-free analyses and reports, even though many of them are at best tangential to the substance of the rule.

Agency rules are only of value if they can be enforced, but the Dole bill is appallingly hostile to law enforcement. Two provisions create "affirmative defenses" designed to handcuff federal agency enforcement actions. One provides a defense to corporations that claim they reasonably relied on either their reading of the interpretive material that accompanied the agency's rule or information provided by federal or state regulators. Another provision gives corporate wrongdoers an absolute defense if they can show that the rule they are

accused of violating, or that of any other agency, is "incompatible, contradictory, or otherwise cannot be reconciled with the agency rule, regulation, adjudication, directive, or order being enforced." According to the *New York Times*, these provisions were added by Senator Dole at the urging of major corporations such as Georgia Pacific that are in hot water with the EPA.

These provisions are the modern-day equivalent of "get out of jail free" cards for corporate wrongdoers. For one thing, at least in some states, it is notoriously easy to get state personnel to interpret EPA or OSHA rules in a manner favorable to a large, politically well-connected corporation. For another, given the blizzard of low-level directives issued by agencies interpreting rules, it will not be hard for corporations, represented by squads of high-powered lawyers, to find arguably "incompatible" statements made by either the agency seeking to take enforcement action or a sister agency. Worst of all, agencies and courts will have to sift through all of these defenses when, at present, the only question they have to resolve is the straightforward one of whether the corporation violated the rule. The result will be far more complex, lengthy, and expensive enforcement proceedings, where the inquiry will be diverted from the corporation's misconduct to whether the agency has shown laser-like consistency in its interpretation of its rules.

A NEW ENTITLEMENT FOR BUSINESS

The House bill would erect an unbelievably expensive entitlement program for private property owners. Under the proposal, agencies undertaking certain specified regulatory actions aimed at protecting the environment that reduce property values by 20 percent must compensate affected property owners. Not only will this program cost taxpayers tens if not hundreds of billions of dollars, it will also stall regulatory action that might even arguably impair property rights, regardless of the importance of the underlying policy goals. The first casualty will certainly be the wetlands protection and endangered species programs, which many Republicans oppose but are afraid to criticize because of their popularity.

The Dole bill would give Congress a 45-day period to pass a joint resolution disapproving all new regulations. If the joint resolution is signed by the president, the rule would not go into effect. In

addition to slowing up the regulatory process, this procedure would allow regulated industries one more chance to use their lobbyists to persuade sympathetic legislators to stop a rule for reasons wholly divorced from the rule's technical merits.

The three key themes of the current regulatory reform proposals unmask the cynicism of their supporters. First, they condemn the present regulatory system as being overly prescriptive, too expensive, and laden with burdensome and often useless paperwork requirements. Their remedy is to make the regulatory system even more prescriptive, more expensive, and more laden with burdensome and useless paperwork requirements.

Second, the bills' supporters have led the fight in Congress to protect state and local governments from "unfunded mandates"—federal programs that require expenditures that are not fully met by the federal government. These bills call for a quintessential "unfunded mandate" because they impose highly expensive analytical requirements on agencies without giving them the funds to conduct these studies. Not surprisingly, the same members of Congress who support these bills are proposing to slash agencies' budgets. Indeed, since many of the required analyses will have to be undertaken by state agencies under various delegated programs, the bills should be subjected to a mandates analysis under the recently enacted unfunded mandates statute.

Finally, the bills' supporters have decried excessive litigiousness in American society and championed cutting off the rights of victims of defective products to go to court to seek redress. To say, as do the bills' advocates, that corporations ought to have the right to sue at every turn to disrupt agency rule-makings, while injured people should be deprived of their day in court, makes it crystal clear just whose interests are being advanced in this bills.

Senator Roth's bill is not as radical as the Gingrich and the Dole measures. For example, its risk assessment principles are not quite as prescriptive, judicial review of risk

assessments and cost-benefit analyses is precluded until after the agency publishes its final rule, and judicial review of the threshold question whether a rule is "major" is subject to a very deferential standard of judicial review. Some moderates have argued that the Roth bill represents a reasonable compromise that the Clinton administration should support.

Senator Roth is trying to hold what he believes to be the center, and he was buoyed by the support of moderate Democrats on the Senate Governmental Affairs Committee, which reported his bill out unanimously. But it is far from clear

that Roth will have the inclination or the ability to take on Dole. The most hopeful sign thus far was the attempt by Senate Judiciary Committee Democrats to filibuster the markup of the Dole bill, but in the end, they lacked the votes to bottle the bill up in committee. And the White House has sent strong signals that while President Clinton would probably veto the Dole bill, he could grudgingly live with the Roth bill.

Although it is highly unlikely that Congress will enact regulatory reform legislation that closely resembles the Roth bill, even that bill provides too many restraints on health, safety, and environmental agencies. Even the attenuated risk

assessment, cost-benefit, and peer review requirements of the Roth bill will add greatly to the resources and time that agencies must devote to providing the supporting documents for major rules. And the Roth bill would still require agencies to waste precious resources revisiting old, possibly uncontroversial regulations.

In the final analysis, the details of the analytical approaches that agencies use in writing health, safety, and environmental regulations should be left to the executive branch. Congress should articulate the policies that guide the agencies in substantive legislation that has been the subject of hearings before the committees with jurisdiction over those agencies, not in omnibus laws that enact wholesale changes. The public may want to see some changes in the regulatory process, but it deserves better than this.□

Their remedy is to make the regulatory system even more prescriptive, more expensive, and more laden with burdensome and useless paperwork requirements.

FIGHT SMOKE WITH FIRE

Why the White House Should Embrace Efforts to Stop the Tobacco Industry from Targeting Kids

By Michael Pertschuk

Sometime soon, on the basis of two years of exhaustive investigation and legal analysis, Food and Drug Administration Commissioner David Kessler is likely to make a formal finding that tobacco products, cigarettes, and smokeless tobacco are drug delivery devices within his agency's jurisdiction. He will likely find that tobacco companies target teenagers in their marketing strategies and deliberately manipulate nicotine levels in their products to create and sustain nicotine addiction. And, he will probably conclude, since 90 percent of smokers become addicted before the age of 21, nicotine addiction is a pediatric disease.

With that finding, Kessler is likely to consider the following initiatives:

- restrictions designed to limit youth access to tobacco (already in place but ineffective), such as barring the sale of cigarettes in unattended vending machines;
- limited restraints on advertising and promotion techniques, such as seductive images, that induce children to use tobacco;
- the inclusion of information about the addictive nature of nicotine or the other potentially harmful additives and constituents in tobacco products; and

co products; and

- an educational program targeted at children.

When Kessler begins this campaign, the tobacco industry will try to rally the public with claims that federal bureaucrats are hell-bent to deny their right to smoke. But Kessler has said repeatedly that he has no such plan or desire. Instead, Kessler will most likely focus on measures that would prevent another generation of children from becoming hooked and that should affect adult smokers only tangentially.

Right now, tobacco lobbyists are already hard at work persuading White House political operatives that the president's hostility toward tobacco was a major cause of congressional Democrats' disastrous losses in the South and that only by publicly halting and repudiating Kessler do the Democrats have a prayer of reclaiming tobacco-state votes in 1996. This argument is disingenuous and self-serving, but, more to the point, it's wrong. In deciding whether or not to give Kessler vigorous support, President Clinton need not choose between virtue and expediency. Protecting children from tobacco is a winning issue.

Kessler's prospective measures are totally consistent with the president's principled support for health promotion and in particular antismoking efforts aimed at children. This president has been the most forthright in history in addressing the magnitude of the problem posed by tobacco use in the United States. He declared the White House smoke-free and proposed a 75-cent cigarette excise tax as a cornerstone of health care reform, while the Occupational Safety and Health Administration (OSHA) has instituted smoke-free-workplace rule initiatives. This principled, consistent stand has been popular among the relatively few who are aware of it. Standing tall against the industry's lobbying allows the president to demonstrate and publicize his constancy in pursuit of principle. Caving in to the tobacco lobby would reinforce public fears of a waffling president with no principled core.

President Clinton has framed much of his opposition to the new Republican majority as a

defense of children. Kessler's campaign to protect children from tobacco companies meshes with these themes nicely. Polling data also consistently show overwhelming public support for restricting children's access to tobacco. A Robert Wood Johnson poll, for example, shows 91 percent support for a ban on vending machines "which are accessible to kids." Seventy-three percent believe limiting advertisements to words—that is, to "tombstone" advertising, a peculiarly apt term in this case—would reduce their appeal.

Despite current antipathy to government regulation, the November 1994 elections confirmed public support for strong measures to discourage tobacco use. Defying general antitax sentiment, voters in conservative Arizona supported a major increase in the state's tobacco tax. An outspoken supporter of the Arizona tax referendum was none other than former Senator Barry Goldwater. While Californians were reelecting their Republican governor, they rejected, by 70 percent to 30 percent, an effort by the tobacco industry to weaken California's laws protecting nonsmokers. The margin was no smaller even in conservative Orange County.

Support for tobacco control measures is at least as strong, if not stronger, among the conservative middle class that Democrats lost in 1994. According to a December 1994 evaluation by Mathematica Policy Research of data collected for the Robert Wood Johnson Foundation, "conservative Democrats consistently demonstrated greater support for tobacco control measures than other groups."

Surprisingly, support for tobacco control cuts across geographic lines and is as strong in the tobacco-growing South as in other regions: 75.4 percent of the southerners in the Robert Wood Johnson poll favor banning cigarette vending machines, 1.5 percent more than the national average. Even Greensboro, North Carolina, the home of an RJR cigarette factory, adopted a strong smoke-free ordinance—and then defeated an industry-led recall initiative.

Support for tobacco control is as intense as it is broad. The Robert Wood Johnson poll reveals that 44 percent of the population believe they

have lost family members or close friends to tobacco-related diseases, and these people are markedly more supportive of policies designed to limit tobacco promotion to minors.

But if Clinton supports the FDA, isn't he vulnerable to attacks on big government? Not in this instance. The FDA is trusted, even popular. Of all the functions of the federal government, protection of health and safety enjoys the highest support, and the FDA is one agency that symbolizes that support. Even a poll commissioned by the right-wing *Citizens for a Sound Economy*, whose questions were designed to evoke chords of discontent with the FDA, could not shake the confidence that most people express in the agency. Two thirds of those polled held a favorable opinion of the FDA. Two years ago even Newt Gingrich acknowledged in a letter to the Coalition on Smoking OR Health that FDA regulation of cigarettes was a reasonable exercise of its responsibilities.

The tobacco industry, by contrast, is in chronically low repute. That ill repute rubs off on politicians who consort with it. Nothing more belies the new Republican congressional leadership's claim to speak for the people than its sordid ties to the tobacco lobby. The issue promises a great contrast between Clinton and his likely 1996 foes. Bob Dole and Phil Gramm are closely aligned with tobacco, and Pete Wilson's campaign manager is a former vice president for Philip Morris.

Although tobacco regulation is not at the top of the public agenda, battling Big Tobacco is unlikely to fade into obscurity. In March, CBS's *60 Minutes* presented a scathing profile of a former tobacco lobbyist, Victor Crawford, now afflicted with throat cancer, who calmly admitted lying for the money. Several print and TV investigative reporters and teams are preparing exposés of the close connections between the tobacco lobby and the new leaders of Congress (as well as the old). *Newsweek* already heralded the election results as the triumph of the "Merchants of Death"—tobacco, booze, and guns. Let the Republicans smoke, drink, and shoot themselves in the foot. □

***The startling new book,
by economist Jeremy Rifkin,
that's sparking a heated debate on
Wall Street and in the nation's capital.***

"The End of Work is rich in detail, absorbing in its real-life relevance, and large in scope. An indispensable introduction to a problem that we (and our children) will be living with for the rest of our lives."

—Robert L. Heilbroner

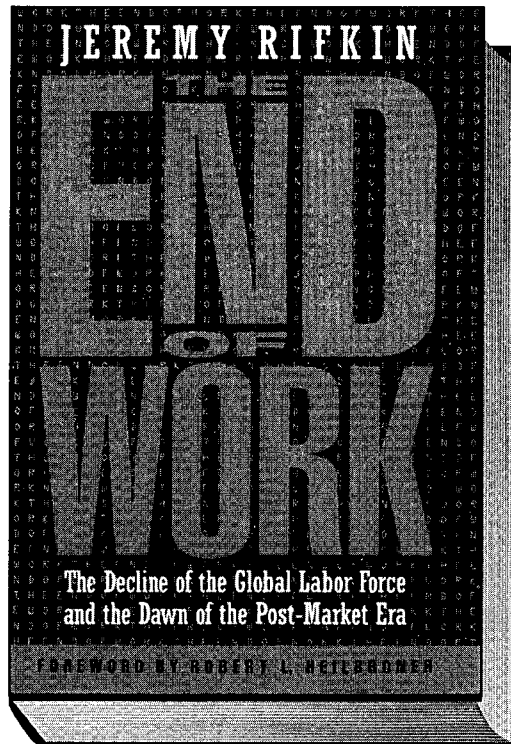
"Rifkin's prescriptions are thorough, thought-provoking and... as radical as reality itself."

—*Newsday*

"Rifkin warns that in the coming years new, more sophisticated software technologies are going to bring civilization ever closer to a near worker-less world. His book is timely and... is arousing enormous interest."

—*Financial Times*

Jeremy Rifkin addresses boldly and expertly a most important problem facing contemporary society, a problem that most economists are reluctant to discuss.... This is a very readable and important book." —Wassily Leontief, Nobel laureate and Professor of Economics, New York University



"Jeremy Rifkin is among the few with the vision to identify the problems that fundamentally destabilize our societies.... The End of Work is provocative and timely."

—Sir James Goldsmith, European Parliament



Jeremy P. Tarcher, Inc.

A MEMBER OF THE PUTNAM BERKLEY GROUP, INC.

THOMAS GEOGHEGAN

You're Being Robbed

All my labor friends got to testify before the Dunlop Commission, so it's natural that I'd be jealous and inclined to pan it. But as I read the report, I was impressed by how fine, how readable a document it is. The compromise the authors try to broker is also ingenious, with its trade-offs intended to persuade business and the Republicans to let the unions come back. Maybe the Wagner Act, our existing labor law, could really have worked. It is depressing to think that with a little wrench in the legal gears, we might not have had to lose our unions, our high wages, the whole promise of American working life.

Alas, the regime of labor relations has crashed. For several decades, we have been trying to revive it. Maybe it's time to stop. The Dunlop Report is surely the last gasp. I felt the gasping, the strain on every page, to come up with a reason why business, why the Republicans, should bring the unions back. I don't want to chide. The authors, I am sure, know this too. I could almost hear them whispering, "We know how hopeless this is."

I kept trying to figure out who this Dunlop Report was for. Senator Arlen Specter? Or John Chafee? Two or three Republican swing votes, who might have voted for labor law reform in the last Congress? It's too late now—too late for at least ten or more years. By then, I hate to think what the country will look like.

WORK DISCUSSED IN THIS ESSAY

Commission on the Future of Worker-Management Relations. (Dunlop Commission) Volume I: *Fact-Finding*; Volume II: *Report and Recommendations* (Government Printing Office, 1994).

Wages have dropped, and dropped, 1 percent a year, drip, drip. Maybe wages will stop falling. But it seems far more likely that we are just midpoint in the fall. The percent of union membership will keep dropping, too. By the time we get to the Wagner Act again, there may be nothing left to save.

In 1978 (when Carter failed to win stronger protections for the right to unionize) and in 1994 (when Clinton failed), the idea was that somehow labor and business would cut a deal. But now the problem is:

(1) There's no deal to be cut, for Labor has nothing to offer, and (2) There isn't even much of a Labor to cut a deal with.

The image, evidently, was of John Dunlop on the phone, like in the old days: "Charley, I've talked to Bob . . . yeah, right. . . Can you talk to Harry? What does he say? Hm hm, hmm. . . Well goddamit can't we talk?" A subtitle for the report might have been: "When do we go to the phones?" But if we picked them up now, we'd only get a dial tone. The CEOs have everything they want. John Dunlop is over 80, and Lane Kirkland spends election night in the company of William Safire. It's hard to believe

it's over.

When I was 20 years old, I stood as a child in the office of John Dunlop. I was to interview him for the college paper. It was not easy, since calls from "Charley," from "Bob," kept coming in. And as he glowered at me, I felt the shame, deep shame, of being a '60s flower child, running around like a little boy saying "Stop the war, Stop the war!" I fumbled and pulled out my summer union card, "Metal Polishers, Platers, and Buffers." "I'm not like the other kids," I wanted to say. But he kept growling, taking calls; I knew what he thought of me, of all of us. Labor! Some damn kid, whose idea of labor was to read a book by E.P. Thompson. Well . . . no wonder I didn't get to testify.

The Dunlop Commission was pronounced dead on appointment by the major business organizations. What did the Dunlop-types really think they were going to say to business? "Well," they might argue, "give labor the right to organize, and it'll get you boys out of all these pesky civil rights suits over Race, Sex, Age. . . . You don't want those, do you?"

But this is fantasy. It's just not a big enough nuisance for Business to bring Labor back. These individual suits are like flies, easily swatted away, and very minor, compared to the problems of dealing with a union, or just plain-old paying higher wages.

"Well," they might also argue, "what about work teams? Don't you boys want to set up work teams and empower your workers? Sure you do. Well, we don't think you can because of the Wagner Act, and to change it, you've got to come to us, and make a deal. Look, we'll repeal Section 8(a)(2) of the Wagner Act, so you can do this. . ."

Someday someone should do a Ph.D. on the academic euphoria that broke out over the Electromation case and Sec. 8(a)(2). In Electromation, a rag-tag group of women making \$6 an hour started screaming when their benefits were cut. Afraid they might form a union, Electromation set up a council. But then they found one of the council members was trying to form a union, so they kicked her off.

Sec. 8(a)(2) prohibits company unions. The NLRB and the courts found the Electromation Corporation in violation. For a moment, the Electromation ruling seemed to prohibit the whole high-performance work game, and thus to give Labor a new bargaining gambit: You stop harassing unions, and we'll support overturning the Electromation case, so you can have your work teams and employee participation back. It became an academic cottage industry.

But there are still work teams at Saturn and elsewhere. As a labor lawyer, I don't have Section 8(a)(2) cases. I don't know lawyers who do. No one ever heard of Electromation until, well, Electromation. Does anyone even at Harvard think that business wants to set up councils, even ones they pick, to sit around and discuss wages? The beauty of

the present moment, for business, is that no one has permission to discuss wages. So why would business want to bring it up?

As a friend said, "In their wildest dreams, business couldn't have labor law as good as they have it now." On paper people have the right, even think they have the right to organize. But if they exercise it, they'll be fired.

How can we convince Big Business to bring back Labor? We can't even convince the Democrats. Once in 1992, I heard Governor Clinton speak at the Fairmount Hotel. It was the period he was talking, like a Presbyterian, about a "New Covenant." The Governor kept saying: "And so, tonight, I'm calling for a New Covenant. . . and it's got to be a covenant with. . . Business. . . and with. . . Government. . . and with. . ."

I turned to my companion and said, "My God, he's going to say 'Labor.'" But he stopped, bit his lip, looked out at us. . . as if he were circling the field, trying to find a place to land. Then he went off for a while, but he came back to the idea a little later:

"And so, that's why tonight I'm calling for a New Covenant. . . and this has to be a covenant with . . . Business, and with. . . Government, and with. . ."

He stopped. "Come on, Governor," I thought, because I kind of liked the guy. "Say it, just say the word. . . 'Labor.'"

I felt like a controller trying to radio him in. But he just circled one more time, and sadly, I thought, just flew away.

The Dunlop Commission suffers from something of the same faulty radar.

Though plainly made up of appointees who think unions are good for society, the commission stops just short of explicitly arguing that the whole point is to bring back labor. The Dunlop Report is very good on the fall of wages. But then comes a kind of gap, or almost aphasia. What do we do about this? Are we to assume that unions cause wages to rise? If that's true, shouldn't we call for the return of unions? The report is, well, vague about this. Often it seems to say, instead, that wages will rise when we all work together and be more cooperative? More cooperative? What more do people have to do? In 90 percent of the private sector, there's literally no union, no employee voice at all. There's cooperation for you! Indeed, the Rogers-Freeman survey on worker attitudes (an appendix to the Dunlop Report) suggests that workers are almost craven. Most workers don't want to pick a fight with the Boss. Most don't even blame the boss for cutting their wages.

I started fuming as I read the survey. Last November, it hurt me to see all the Angry White Males, in pain from falling wages, go to the polls and elect people who will cut their wages even further. They don't blame the Boss. As their wages drop, and drop, they call up talk radio and scream about Hillary Clinton. Why? Because the Boss, who's cutting their wages, can hit back. Hillary Clinton can't. She's in D.C., and can't hear them.

In no other country have wages dropped, and dropped, for fifteen years . . . while people have said nothing. This doesn't happen in Germany. Or Belgium. Or even Canada. The

Rogers-Freeman survey should be a call to arms. After all, more than 30 percent of the nonunion workforce say they would like to be in unions. Thirty percent! How did they even hear about unions? Our side is up to 30 percent and no one has even said a word. What if someone actually raised the idea on TV?

WHAT TO SAY

Years ago, in South Chicago, down by the mills, where there are a lot of White Males, the union politicians had a way of getting to them. The trick, said Ed Sadlowski, the steelworker organizer, was to get a lock on what, in politics, were the Three Magic Words:

"You're Being Robbed."

For twenty years, my whole adult life, the Republicans have had a lock on the Three Magic Words: "You're Being Robbed. It's Government, it's taxes. . ."

And what's our response? We, the Democrats, like to blame the workers for falling wages. They don't have skills, etc. How's that for a political message? When we talk about job training, what comes out to most people is: "It's too late for you, pal. Your life is over." Or "You have to work harder." Or "If you aren't making enough, it's your own fault." Every time Clinton-types talk about creating new high-wage jobs, rather than defending wages in existing ones, I think the Democrats lose another 500,000 votes.

And why do we go on and on about sending more people to college? According to the Bureau of Labor Statistics, 25 percent of college graduates are already stuck, forever, in noncollege jobs. (And by noncollege jobs, the BLS

means selling ties at Marshall Field's.) What profit is there in jamming even more kids into college, except to teach them to curse us? What kind of political strategy is this?

Democrats are reluctant to blame the boss, or to practice "class-based politics." It's not our role, as Democrats, to say, "You're Being Robbed!" But why not? Perot says it. In many ways Perot is like a John L. Lewis. They were both Republicans. And demagogues. But so what? During the debates in 1992, when I closed my eyes and asked myself, "Which candidate is representing labor in this debate?" I usually had to tell myself it was Perot. When Perot talks about wages, he doesn't talk about job training, or new jobs. He talks about raising wages on the jobs people already have.

"The American worker is the most productive in the world, and yet he ranks thirteenth in pay!" Never mind that it's a misstatement. The point is, what kind of message do people get here? That we need job training? Or that we should go back to college? Or is it maybe that we should raise the wages on the jobs people already have?

At least, as Democrats, we can give people permission to talk. In the U.S., apparently, the only wages we can debate are the wages of ballplayers. In Germany, by contrast, while our ballplayers were striking, the I.G. Metall union had a four- or five-minute strike, and got a wage increase (in a recession) of 4 percent. An increase! Wage workers in the U.S. haven't had an increase in 15

years. And everyone in Germany discussed it, and had a stake in it, and had, in a sense, permission to talk about it. Whatever I.G. Metall got, of course, everyone got. I know a German in the foreign ministry who could figure out his own wage increase, just based on what happened with I.G. Metall.

How do we get such a conversation going here? In my own personal, private Dunlop Report to Democrats, I would say, first: We have to get on TV. In a way, this seems even harder than labor law Reform. My brother's brother-in-law Joe Costello, who worked for Jerry Brown and came up with the idea of the "800" number, told me: "Liberals hate to go on TV. They want to write op-ed pieces for the *New York Times*." He laughed. I didn't dare say I was writing a piece for *The American Prospect*.

It doesn't matter, in the post-Dunlop era, whether Labor is "dead." The real problem is, it's not on TV. And if you're not on TV, you don't even exist. And to get on TV, you have to say, "You're Being Robbed!" We don't know how to say these words. We giggle, get nervous, start fumbling for the *New York Times*. If we accepted this challenge of getting on TV, we'd learn how to talk to real people.

WHAT TO DO

We also have to give people a standard to know if they're being Robbed. Imagine the Democratic White House, as in Roosevelt's day, as the Big Bargaining Agent.

Here are a few things to try:

Bring Back the Blue Eagle.

Since we can't do much with the Second New Deal (the Wagner

Act is dead), let's try the first New Deal. By that I mean, revive the Blue Eagle—the National Recovery Act (NRA). It was the NRA that helped create the climate for bringing back labor.

In those days, the idea was to raise prices and wages. So the NRA set up councils, industry by industry, to say what wages should be. Indeed, when Frankfurter, Tugwell, and all the New Dealers came to D.C., the first, second, third idea they all shared was, somehow, to get wages up. Now of course we can't have these councils. But we could set guidelines, industry by industry, and ask:

(1) How much has productivity risen? (2) How much has the median wage in that industry risen? Has it kept pace? Why not? (3) Should people be getting more?

Before 1973, wages kept pace with productivity. Then they rose by less than half. Then by less than a third. Now, by even less than that. Like any lawyer before a jury, like the O.J. lawyers before the trial, we have to bring the public along, get them nodding, give them permission to ponder the question: "Yes, I see, this is how I'm being robbed. . . it's not really my taxes, is it?"

Use the Power of Government Contracts. As buyer-in-chief, the president can ask each supplier:

(1) Do you try to improve productivity? (2) Do you let your workers share in the higher gain?

We have to be careful about imposing conditions. They must improve "economy" and "efficiency." But doesn't it improve economy and efficiency in the meaning of the procurement laws if vendors do these things? The

president can say, plausibly, "Just to let the working American 'participate,' get his share. . . will make his company more productive, still."

Some people think so. It's a rational belief. And it may get people thinking, "Hey, am I being robbed?" And that the Democratic president cares that I'm being robbed.

Use NAFTA. There are labor side accords that say we must meet basic "labor norms." Wage increases must roughly reflect productivity gains. If not, we aren't living up to the agreement. We are also obligated to enforce our own laws. Under federal labor law, such as the Wagner Act and Taft-Hartley, courts are supposed to declare a "common law," that is, fill in the gaps, based on their reading of federal labor policy.

The president should underscore those norms: "I want to favor companies that bargain based on productivity." Slowly, wake people up. Get them nodding, "Yes, this is something we should be discussing."

Tell People What Their Wages Are. I once asked the Bureau of Labor Statistics how they found out what companies were paying. "Oh," a staffer said. "We ask the companies. This is confidential."

But why confidential? Why not let people at those companies know? Why not let the Labor Department collect as much as it can on specific companies, and just put it "on line"? Let hackers tap in. Let them do comparisons with other companies.

In the 1950s, when labor was at flood tide, we knew what each other would make. We just read

the collective bargaining agreements. Clerk II. . . \$15,000. Hamburger Helper IV . . . \$19,000. Now it's as if an iron curtain has descended over our wages. Why not lift it? What harm if we find out what a Clerk II at Dupont actually makes? And more important, what he or she should make?

As some economists now argue, there really is no market price for labor. What astonishes Europeans is how people with the same job, same experience, even in roughly the same part of the U.S. (teachers are a good example), can be up to \$30,000 to \$40,000 apart in salary! *Parade* magazine has this contest, "What do they make?"—because no one in this country has a clue.

Call in the Allies. Shouldn't our trading partners be concerned about the collapse of our wages? Why don't they have a G-7 meeting to discuss it?

After all, in 1991, Helmut Kohl tried to push a Social Charter on John Major. The charter said that employees had a right to be consulted about basic decisions affecting the firm. Sometimes I wish the U.S. could sign on to the Treaty of Maastricht.

But of course we couldn't. We'd never meet the conditions for the single currency. Not the way the dollar has been collapsing.

Why should the G-7 and others be concerned about our wages? Simple. How can there be any stable dollar, global security, harmonious world trade, as long as American wages collapse?

At Brussels, when I visited, a German told me how German-type labor law, codetermination,

was really something they would like to see in other countries. "I mean, we're just saying, 'It worked for us.'"

"You want to impose your system on other countries?"

He gasped. I laughed: "I'm a labor lawyer, I don't mind."

As he pointed out, we accept democracies are stabler the more that people can vote and participate. Isn't it also true that whole societies are stabler the more that people can "vote," and "participate," at their place of work?

In Germany in the last few years, everything has happened. End of the Cold War. The absorption of East Germany. The massive opening up of the East. And it's been so dull, politically, you could almost fall asleep. In the U.S., nothing has happened. Almost literally. And the country has almost fallen apart.

Bash Labor. In the *Post*, or *Times*, I read how Clinton balked at raising the minimum wage, because he did not want to seem a "captive" of Big Labor.

Huh? No one has seen or heard of Labor since the mid-1980s. And historical memory in the country does not go back that far.

But if Clinton Democrats really worry about this, I have an idea: Start enforcing the Landrum-Griffin Act, which no one has ever tried. Not just enforcing, but setting out new rules that say, in effect, all officers will run for election. All of them. A section already states there should be provision in every union for removing officers by referendum. All unions must allow members to vote whether or not they want to have rank-and-file elections, as the

Mineworkers and Teamsters now do. Take a page from John L. Lewis: One way to get the country excited about Big Labor is, from time to time, to blast it.

The point is to get a conversation going. Give out Blue Eagles. Pick on specific companies.

In a sense, this is just jawboning. But it's also a way of applying what economists would call "expectations" theory—to get people to "expect" or even demand that their wages should go up. Some will say, "Won't these be piddling increases?" You bet. We aren't going to shoot wages through the roof. Just raise them a little, or at least, for God's sake, stop the fall. And make it an issue.

All of these steps the President could do now. But are they enough? No. I feel foolish after all I said, but I really think we need a law.

I'm not thinking of a Dunlop-type tinkering. My proposal is very simple. Amend the Civil Rights Act of 1991, and add, as a civil right, the right to join a union without being fired.

That would give would-be union members the remedies—the same ones—that minority plaintiffs, women, and the handicapped have. Just proposing this would help Labor come back.

As a labor lawyer, I'd love to break into the Civil Rights Act . . . look at the remedies we'd get:

- punitive damages (capped, I'm proud to say);

- jury trials (get them weeping);

- immediate temporary restraining orders (no four-year waits for the court of appeals);

- legal fees (need I say more?).

But why would civil rights law

work for unions, when civil rights laws fail to work for others? In fact, they do work. In some ways, they are very effective at changing corporate culture. No one says, "We're firing you, Bob, because you're getting older." No one tries to "send a message." But when union supporters are fired, sometimes in droves, the Boss is trying to send a message. The problem of proof is easier. If you aren't sending a message, that is, trying to influence a union election, why are you doing it?

Besides, and most important, all the blocs in the Democratic Party would at least "get it." People watching TV would "get it."

Just to have a debate that people could understand would be to break the whole subject of the hotel rooms, and universities, and phone calls. We could talk about it on TV! In public! We might even get Bill Clinton or Al Gore to talk about it. When Gore announced in Bal Harbour that the administration would debar union-busting firms from government contracts, he did it behind closed doors! The press had to guess what he was saying.

How could Bill Clinton speak in favor of striker replacement? How can the president look like he's in favor of people going on strike? But it would be different if he could talk about a civil right, in language that we all, as Americans, could understand. "Heck," the president could say, "I don't care if you join a union or not. I just think in this country we can say whatever we think."

Now that's the kind of labor law he could even argue in the South. Since we can't cut a deal in

this post-Dunlop era, let's only try reform we can talk about on TV. In the southern TV market, a Democrat might call it "the Angry White Male Attitude Adjustment Act," and to give it a little erotic charge, talk about as a "family wage." And on this subject, it's not the class-based appeal that scares Republicans: it's the gender subcontext. I know I should not say this. . . but isn't it a point of pride in some of the UAW locals around Detroit that the members' wives don't have to work? Anyway, it's not a sexist argument, since a single-wage or high-wage economy can be androgynous (as in the case of Sweden). We can argue it to house-husbands in Concord, Massachusetts, as well as to rednecks—that is, people of color—in Baton Rouge.

Meanwhile, by making it a "civil right," we get people thinking differently. We disconnect the "labor" issue from "labor."

Which is why "labor" hates it. They don't want "reform" from, as we say in Chicago, "nobody nobody sent." Who are these lawyers who would bring the civil rights cases? Do we know them? Are we paying them?

When I raise the idea of labor as a civil right, a Title VII issue, some of the labor people I know start shouting: "Don't talk nonsense! You don't know what's going on. We've got this all set up in the next Congress." They pat you on the head and say, "Go testify before the Dunlop Commission."

The best part of a Title VII approach is that it pulls new people into organizing. So what if Big Labor loses control over it? And the idea of a damage action is not such a departure from existing

law. Employers right now can bring damage actions, get restraining orders when the rare union plays hardball. This bill, in effect, would bring labor law into balance.

No doubt the liberals who are the fiercest critics of liberalism must be groaning, "Another civil rights law? We Americans are too 'rights oriented,' and we already have race, and sex, and age and..."

But aren't we so rights oriented because we don't have any rights? People here can be fired for any reason, at any time. They don't need a Title VII in Holland . . . they already have laws against unjust dismissal of any kind, as we do not. Unless we shoehorn ourselves into a group, we don't have any rights at all. If we wanted to end this sickness of liberalism, we'd simply have liberalism for everyone. We just have to get people nodding, "Maybe labor law belongs to me."

But isn't there any kind of deal worth cutting, Dunlop-style? What do you give the CEO who has everything?

Apart from "labor law," there is another, longer list of things that Republicans and Rich People would love to have. While the Dunlop-types cannot consider these sort of trade-offs, because they are far beyond the workplace, you and I can: capital gains; assault weapons; a flat tax; a balanced budget amendment. . .

Don't gasp. I haven't lost my mind. I don't say we give them up in unadulterated form, or in exchange for crumbs. But if wages keep falling, if the U.S. gets nastier, more volatile, if we try to

go on as a "left" with no labor movement, we could end up losing these things anyway, lose all our bargaining chips, and have nothing in return.

Without labor, or something that a Clinton can sign a "Covenant" with, that can do the phone-banking for our side in the years ahead, that can give wage and salaried workers a reason to vote for liberals, we might as well give up now. So what is it you would be willing to trade? For me, it's capital gains. Easily. I think I would balk at the balanced budget amendment.

This would be a form of "Soaking the Rich"—in the sense of dousing them with champagne. Let's shower them with tax cuts, assault weapons, whatever, in exchange for something in return. Bob Dole, for example, would fight the minimum wage rise until Hell froze over. . . unless, of course, we're offering capital gains.

Indeed, all sides, even the Bob Dole Right, could stand a little more class-based politics, a little more Dunlop-type rationality. "The great thing about class-based politics," a professor once told me in college long ago, "is that it's rational." Instead of the Politics of Meaning, we talk \$1.25. That's what Dunlop, to his everlasting glory, has done his entire life.

The purpose of such politics is not to heat the country up, but to calm it way down. Get back to the America of Dwight Eisenhower, when labor was at high tide and there was social peace. But to get back to that Era of Good Feelings, first we have to remind people, "You're Being Robbed." □

ROBERT S. MCINTYRE

The Flat Taxers' Flat Deceptions

Having attacked the liberal accomplishments of the Great Society and New Deal, congressional Republicans are preparing to eliminate a reform that stretches even further back into history: the progressive income tax. Republicans in both houses of Congress have introduced plans for a flat tax, claiming that its simplicity and fairness will be a boon to all. Majority Leader Dick Armey, presenting his plan, states that "millions of taxpayers are taken off the rolls entirely, and middle Americans receive a tax cut."

The first part of that claim is largely true. Since Armey's plan does not tax income from interest, dividends, or capital gains, those taxpayers who live completely off of investment income would be taken off the rolls entirely.

The second part of the claim is, by any serious accounting, wrong.

Armey's plan has two parts: It replaces the progressive income tax with a flat tax, and it replaces business taxes with a consumption tax. Both elements would dramatically shift the tax burden from the wealthy toward the middle class and the poor.

If not for stunning misrepresentations, this would be obvious to everyone. Our personal income tax now starts with a zero effec-

tive rate on lower-income families (families of four currently earning up to about \$23,200 pay no income taxes) rising to a 39.6 percent top marginal rate on the incomes of the richest 1 percent. Replace that with a flat rate of, say, 20 percent and clearly the rich will pay far, far less in taxes. That has to be made up somewhere.

Flat-tax advocates imply that the lower tax rate will be made up by closing loopholes for the wealthy and well-connected. In fact, the opposite is true. The complete tax exemption for personal investments replaces many small loopholes with one enormous loophole. Rather than alleviating the plan's regressivity, this aggravates it: A large share of the income of the wealthiest

Americans wouldn't be taxed at all. That would leave middle- and low-income families holding the bag.

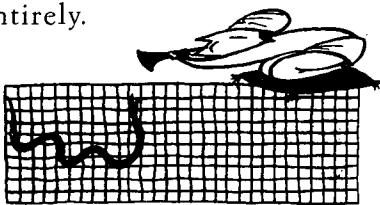
The flat-tax proposals currently in Congress are based upon a plan put forth by Robert Hall and Alvin Rabushka, two Stanford economists. In their 1983 book, *Low Tax, Simple Tax, Flat Tax*, they said that their flat tax "will be a tremendous boon to the economic elite." They honestly delivered what they admitted was "some bad news": "it is an obvious mathematical law that lower taxes on the successful will have to be made up

by higher taxes on average people." Hall and Rabushka calculated that their flat tax would raise taxes by \$1,400 to \$2,400 a year (in today's dollars) on families earning between \$25,000 and \$75,000. But "the truly successful get a better and better deal," they pointed out. "Families with incomes around [\$285,000] receive tax breaks of about 7 percent of income, those with incomes of [\$1.5 million] get 10 percent, and the handful with incomes approaching [\$4 million] get 13 percent."

THE FULL PICTURE

The politicians who have embraced this plan are less candid about its effects. Armey, for example, tries to sell his flat tax by (a) talking only about the wage portion of his tax, while pretending that nobody pays the business sales tax part, (b) denying that his proposed 17 percent rate and high exemptions entail a huge revenue shortfall, and (c) nevertheless insisting that almost everyone will get a tax cut.

Let's start with the first part. The business tax part of the plan would tax all corporate receipts, exempting investments in capital, with wages taxed separately. Economists call this a consumption tax. Armey delicately avoids the term. Calling it a "business tax" allows him to pretend that consumers don't pay it, but Hall and Rabushka have failed to cooperate in this political cha-



rade. During a 1982 Senate Finance Committee hearing, Senator Bill Bradley asked Hall, "So you are advocating a consumption tax?" Hall responded, "That's right, but we are careful not to label it as such." In the revised edition of their book, they are not so careful. "The flat tax," they write, "by expensing investment, is precisely a consumption tax."

Although flat-tax backers seem to think that their business sales tax would be immune from political pressures, this is not the experience with value-added taxes in Europe, nor with sales taxes in the states (the closest existing approximations). On the contrary, lobbying for special exemptions and loopholes is rampant with those taxes, cheating is widespread, and administrative costs are generally as high or higher than for income taxes.

Even the introduction of this huge new consumption tax, however, would not make up for the huge losses of revenue brought about by the plan. Armey proposes a tax exemption of \$13,000 for an individual, \$26,200 for a married couple, and \$5,300 for each child. "A family of four would have to earn \$36,800 before it owed a penny of federal income tax," explains Armey, declining once again to mention the effect of his consumption tax. Too good to be true? Of course.

Although it's difficult to gauge what effect such a radical change would have on economic behavior, a study by the Treasury Department of the impact of Armey's plan pegged the revenue shortfall at \$186 billion a year. To

make up the difference, Armey would have to drastically reduce his proposed exemptions for children, jack the rate up from 17 percent to about 23 percent, or some of each.

Once these changes are taken into account, Treasury's analysis shows that the typical family would pay close to \$2,000 a year in additional taxes under the Armey flat tax. Very rich people, however, would get tax cuts averaging more than \$50,000 each.

More specifically, Citizens for Tax Justice (CTJ) has calculated the effect of the flat tax on a range of income groups. For simplicity, CTJ focuses on non-elderly couples with two children, based on actual tax return and Census data (adjusted to 1996 levels). The results are similar to those shown in the tables presented by the Treasury and by Hall and Rabushka in 1983. For example:

Family income: \$25,000. Under current law, a family of four earning \$25,000 pays essentially nothing in combined personal and corporate income taxes. Taxes that would otherwise be due are offset by the earned income tax credit, which Armey would repeal. Under the Armey plan, with its proposed exemptions but with a 22.6 percent break-even tax rate, such a family would typically pay \$810 in taxes on its \$3,600 in fringe benefits and \$1,540 as its share of the business tax. Thus, its tax bill under the Armey flat tax would increase by about \$2,400. Under the alternative scenario, with a 17 percent tax rate but lower exemptions, this family's

tax bill would increase by almost \$3,700.

Family income: \$45,000. This family would currently owe about \$3,800. Under the Armey plan, its taxes would increase by \$1,740 to \$4,200 a year, depending on the version.

Family income: \$85,000. Current personal and corporate income taxes on this family would typically amount to \$11,140. Under the Armey plan, wage taxes alone would be \$10,400 to \$11,650. When taxes on fringe benefits and the business tax are added in, this family would owe \$4,600 or more a year in additional taxes.

Family income: \$500,000. Under current law, this family would pay \$154,000 in combined personal and corporate income taxes. Under the Armey plan, the family's tax would be slashed by half or more for a tax cut of between \$78,000 and \$93,000 annually.

SUPPLY-SIDE REDUX

How, then, does Armey conclude that his plan will cut everyone's taxes without losing revenue? He relies upon Hall and Rabushka's estimate in their book that the new incentives brought about by the flat tax will lead to a \$1,900 increase in per capita income by 2002. This is just a leap of faith. There is no basis for this claim other than supply-side economics, the notion that lowering taxes on the wealthy will cause an explosion in economic activity whose riches trickle down to everyone. History has not been kind to this view.

Supply-side proponents of the tax-shift policies adopted during the Carter and early Reagan

years confidently predicted that their approach would produce an investment-led economic boom. But despite the rosy scenarios, the supply-side experiment failed. After the 1978 capital gains tax cut was enacted, for example, the gross domestic product (GDP) dropped by 1 percent over the next year and a half, after having grown by 5.8 percent the previous year. The 1981 supply-side tax-loophole bill was followed by the deepest recession since the 1930s.

After several years of weak business investment, rampant tax-sheltering, and huge budget deficits, President Reagan himself switched gears. The supply-siders were banished and Reagan helped lead the charge for the loophole-closing 1986 Tax Reform Act. The result was a fairer, more efficient tax code that treats income more equally, regardless of how it is earned or used. And to the consternation of supply-siders, productive investment surged dramatically after the loopholes were closed and business tax avoidance was curtailed. As former Reagan Treasury official, J. Gregory Ballentine, told *Business Week*: "It's very difficult to find much relationship between [corporate tax breaks] and investment. In 1981 manufacturing had its largest tax cut ever and immediately went down the tubes. In 1986 they had their largest tax increase and went gangbusters [on investment]."

More recently, our economy has enjoyed an investment-led economic rejuvenation following the increases in the top tax rates on corporations and the best-off people in President Clinton's

1993 deficit reduction act—defying the tocsins of doom sounded at the time by Arme y, Gingrich et al. Indeed, from the third quarter of 1993 (when the deficit reduction act was approved) through the end of 1994, real GDP rose by 5.7 percent, led by real business investment growth of 18.4 percent. The stock market is at a record high. Indeed, the economy has done so well since 1993 that the Federal Reserve has taken repeated steps to try to slow it down.

The current flat tax plans dwarf all previous tax change battles. President Clinton had to wage political holy war to win a slight increase in the highest tax bracket. The flat tax would cut it by more than half. While Congress has fiercely debated lowering the capital gains tax by a few points, this plan would drop it to zero. Liberals are shocked that the Republican Congress now seeks to cut the earned income tax credit by a tenth. Arme y's plan would eliminate it entirely.

The irony is that the flat tax is coming into political favor at a time when the economics undergirding it have never been less credible. Worse, at a time when Americans face a long-term rise in inequality and a decline in middle-class wages, Congress is considering solutions that would throw gasoline on the fire. *Fortune* magazine recently ran a cover story, "Get Ready for the Flat Tax," as if it were a fait accompli. The message for anyone who cares about the future of economic justice in America couldn't be any clearer: Get ready to fight the flat tax flat out.□

HOW LOW

(continued from page 96)

labor?

HIT THEM WHEN THEY'RE DOWN

Republican proposals to cut back the earned income tax credit have taken many people by surprise. After all, the EITC rewards work and has long enjoyed bipartisan support. Just when many Republicans are proposing to cut taxes for people with higher incomes, one might not have expected them to propose raising taxes for people just struggling to get by.

But there's apparently lots more money to be recovered from low-income people. For example, New York's Governor George Pataki proposed in April to raise \$320,000 a year by charging the homeless for staying in shelters. The charges would apply to homeless people determined to have personal assets, jobs, or other sources of income. To be sure, charging the homeless for shelter may prevent them from getting together enough money to get back into the private housing market, but state officials said it would teach them "responsibility." (Thanks to Chris Haupt of Dartmouth College for this item.)

Charging the homeless for shelters might also lead some of them to sleep on sidewalks and in other public places. But there's an obvious remedy: charge for that, too. Emile Zola said the rich and poor were equally free to sleep under the bridges. Now maybe they'll be equally free to pay for the privilege.□

THE PERFECT SPOKESMEN

Although they get little respect from political analysts, the forces of irony have been hard at work in the new Congress. They showed their subversive influence when the House Republican leadership chose Representative Thomas Bliley of Virginia to chair the committee in charge of health legislation. Bliley, a long-time advocate of tobacco interests, is an undertaker by profession.

The same hidden forces must have been responsible when Senate Republicans picked Alfonse D'Amato to spearhead the special investigation of Whitewater. Purity has never had more transparent representation than from Al and his pals.

Was it also the forces of irony that put Representative Christopher Cox of California in charge of legislation to change the nation's securities laws to make it more difficult for investors to sue companies and their advisors for fraud? Cox is currently a defendant in just such a case stemming from his prior legal practice, in which investors in two real estate funds claim they were defrauded of \$16 million. In one of the rare expressions of compassion by current congressional leaders,

Cox told the *New York Times* that being a target of litigation has led him to "sympathize with people who are victimized in these suits."

Then there is Representative Charles Taylor, a logger in private life. Taylor has a clear idea for reform of public forests. "We should be working to make America the lumber bin of the world with those forest lands," he told the *Wall Street Journal*.

The current Republican Congress has overcome conflicts of interest by simply denying that any such thing exists. One moment they have business lobbyists write the laws that will apply to their industries; the next moment they claim to be populists. Only the surreptitious agents of irony can explain this.

No issue has been a greater source of irony than term limits. Here we have the spectacle of Republican House leaders endorsing a principle which, if applied to them, would prevent them from remaining in office—indeed, from serving in the current Congress. But, of course, the proposals they brought to the House floor exempted themselves—only days after they had passed legislation saying that Congress should be subject to the same laws as everyone else. Could the forces of irony have devised a

more delicious contradiction?

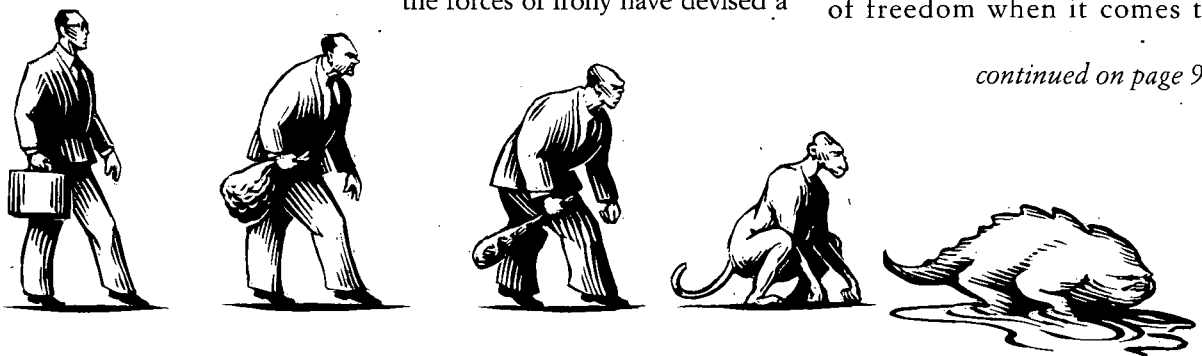
The answer is yes. In the spirit of Bliley, D'Amato, and Cox, Senate Republicans might put forward Strom Thurmond, age 92, as their spokesman on term limits. Come to think of it, Thurmond might actually change some minds on the subject.

MORE LIKE THEM

It's not uncommon for opponents of prison labor to cite the practices of communist regimes. But we did a double take when Senator Phil Gramm on May 9 said in a speech to the Heritage Foundation, "I'd like to turn our prisons into industrial parks. Every year since I've been in Congress, Jesse Helms, my dear friend, has offered an amendment to ban Chinese goods produced by prison labor. And every year I wonder why we can't make our own prisoners work."

As a former economics professor, perhaps Senator Gramm can diagram what happens to the price of labor when individuals who are "free to choose" whether to take work must compete against those who are coerced to work for nothing. Isn't it curious that a politician who professes to defend free markets somehow forgets about the most elementary conditions of freedom when it comes to

continued on page 95



CHATHAM HOUSE PUBLISHERS, INC.

Box One, Chatham, NJ 07928 Telephone: (201) 635-2059 Fax: (201) 635-9366

IDEOLOGY AND POLITICAL CHOICE

The Search for Freedom, Justice, and Virtue

Vernon Van Dyke, *University of Iowa*

Ideology and Political Choice completes the intellectual journey that began with *The Liberal Tradition in America* by Louis Hartz and *The American Political Tradition* by Richard Hofstadter. Vernon Van Dyke has provided his readers with a penetrating analysis of American political thought since the New Deal. He explains the tenets of basic ideologies, such as various forms of conservatism and liberalism, as well as the political decisions predicated and sometimes dictated by those belief systems.

"Ideology and Political Choice may be remembered as a capstone achievement in Van Dyke's long and distinguished career. In this comprehensive, balanced, and engagingly written work, Van Dyke chronicles and authenticates the texture, diversity, and relevance of ideologies in, or close to, the contemporary U.S. political mainstream. Perhaps already aware of what separates one from the other, adherents of liberalism and devotees of conservatism will learn from Van Dyke about their important *internal* differences as well." **Choice**

"A remarkable tour through contemporary American ideology. As guide, Van Dyke traverses numerous forms of liberalism and conservatism with both charm and clarity. Chapters on the nineteenth-century British background and on the ideological dimensions of public choice theory are worth special commendation." **Philip Abbott, Wayne State University**

"For years, I have taught students that liberals and conservatives vary as much within as across camps, for reasons that are as deeply rooted in philosophy as in contemporary politics. At last we have a book that makes that case with authority, elegance, philosophical sophistication, and persuasiveness." **Jennifer Hochschild, Princeton University**

"A rich mix of history, ideology, and policy. Van Dyke shows what is at stake in choices among ideologies by illustrating their political applications. The distinction between five kinds of conservatism helps explain the Republicans' 'family' quarrels." **Nancy S. Love, Pennsylvania State University**

"Ideology and Political Choice is a fine guide to contemporary political ideas in practice, as valuable as a scorecard at a baseball game. The book is remarkably comprehensive, conspicuously fair-minded, and everywhere marked by Van Dyke's mixture of learning and common sense." **Wilson Carey McWilliams, Rutgers University**

"Van Dyke has produced an excellent analysis of the 'isms' and ideologies that influence the lives of every American." **James D. Savage, University of Virginia**

"A lively and illuminating examination and texturing of current ideologies on the American political landscape. Its gracefully written presentation will bring students to an understanding of the ideological impulses that shape our politics and help determine the country's current direction." **Joel H. Silbey, Cornell University**

1-56643-017-8 \$24.95 paper

"A brilliantly focused defense of liberalism."*

*Passions
and
Constraint*
ON THE THEORY OF
LIBERAL DEMOCRACY

Stephen Holmes

"Holmes argues for a positive conception of liberalism positively; state-building and theory-building work hand in hand.

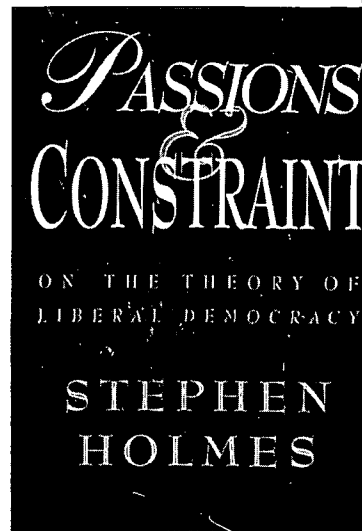
... This ought to be one of the most widely discussed works in political philosophy of the decade."

—Alan Wolfe, *New Republic*

"Indeed, it will quickly become the 'manifesto' for what is a rapidly growing movement to reclaim liberalism as a truly progressive and humane ideology after decades of political and academic assault in which to be labeled a liberal was the worst of put downs."

—Isaac Kramnick, Cornell University*

"*Passions and Constraint* is lively, elegantly written, entirely original in the approach it takes and the arguments it uses and sure to cause something of a stir when it appears." —Alan Ryan, Princeton University



Cloth \$29.95 360 pages

0076*****3-DIGIT 488
PUB 1 177011 FALL 95 360287
MR JOEL A DINDA
PO BOX 197
MULLIKEN MI 48861-0197

AVAILABLE AT BOOKSTORES.

THE UNIVERSITY OF CHICAGO PRESS

5801 South Ellis Avenue • Chicago, Illinois 60637